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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

**NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG,
AND COSMETIC ACT**

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

7701-7900

FOODS

The cases reported herewith were instituted in the United States District Courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

WATSON B. MILLER, *Acting Administrator, Federal Security Agency.*

WASHINGTON, D. C., August 13, 1945.

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BEVERAGES AND BEVERAGE MATERIALS

7701. Misbranding of Effect-O beverage stabilizer. U. S. v. 19 Bottles of "Effect-O" Beverage Stabilizer. Tried to the court. Judgment for the government. Decree of condemnation and destruction. (F. D. C. No. 12371. Sample No. 79524-F.)

LIBEL FILED: May 13, 1944, District of Columbia.

ALLEGED SHIPMENT: On or about March 24, 1944, by the Chandler Laboratories, from Philadelphia, Pa.

PRODUCT: 19 1-gallon bottles of Effect-O beverage stabilizer at Washington, D. C.

LABEL, IN PART: " 'Effect-O' The Perfect Stabilizer For All Beverages."

VIOLATION CHARGED: Misbranding, Section 403 (a), the labeling of the article was misleading. The details of the misbranding appear in the findings of fact and conclusions of law reported herein.

DISPOSITION: March 22, 1945. The Chandler Laboratories, claimant, having filed an answer denying that the product was misbranded, and a jury having been waived, the court, after hearing the evidence, made the following findings of fact and conclusions of law:

PINE, District Judge:

FINDINGS OF FACT

"1. The above-described article (hereinafter referred to as Effect-O) was seized on May 13, 1944 in the possession of and on the premises of the Root Pop Bottling Co., Inc., 413 2nd Street, N. W., Washington, D. C., by process issued pursuant to a libel for condemnation filed in this Court by the United States of America.

"2. Thereafter, on July 20, 1944 the Chandler Laboratories appeared in the proceeding as claimants and owners and filed an Answer.

"3. Interstate shipment of Effect-O was admitted.

"4. The Effect-O under seizure was labeled (carton and bottle label) at the time of shipment and thereafter: 'Effect-O The Perfect Stabilizer For all Beverages Eliminates the use of Preservatives Use $\frac{1}{2}$ oz. to each gallon of bottling syrup. Chandler Laboratories, Philadelphia, Pa.'

"5. Effect-O was used by the Root Pop Bottling Co., Inc., as a component of root beer.

"6. Effect-O contains about 14 grams (one-half ounce) of monochloroacetic acid in each 100 cubic centimeters ($3\frac{1}{2}$ ounces). In that proportion, there is sufficient monochloroacetic acid in each 100 cubic centimeters of Effect-O to kill a minimum of 92 kilograms of rats (L. D. 50 equals 76 milligrams per kilogram of body weight for rats). Man is more susceptible to poisons than animals such as the rat, guinea-pig, rabbit, or chick.

"7. Monochloroacetic acid is five times as poisonous as carbolic acid; more poisonous than arsenic trioxide; five times as poisonous as barium carbonate, a common rat poison and about one-half as poisonous as bichloride of mercury, or corrosive sublimate.

"8. The labeling on Effect-O did not reveal the material fact that it contained a poisonous substance.

CONCLUSIONS OF LAW

"1. This Court has jurisdiction over the parties and the subject matter of this proceeding under the provisions of the Federal Food, Drug, and Cosmetic Act (Title 21, U. S. Code, Sec. 301 et seq.).

"2. The article under seizure, Effect-O, is a food within the meaning of 21 U. S. C. 321 (f) (3).

"3. The article of food under seizure was introduced into interstate commerce within the meaning of 21 U. S. C. 334 (a).

"4. The article of food under seizure is misbranded within the meaning of 21 U. S. C. 343 (a) and 321 (n) in that its labeling is misleading in the particular that the statements, 'The Perfect Stabilizer for all beverages. Eliminates the use of preservatives. Use $\frac{1}{2}$ oz. to each gallon of bottling syrup', appearing upon its carton and bottle label, create the impression that the article and its ingredients are wholesome and suitable for use as a component of all beverages used by man, and such labeling fails to reveal the material fact in the light of such representations that the article contains a poisonous and deleterious substance.

"5. The article under seizure must therefore be condemned under 21 U. S. C. 334 (a)."

Judgment of condemnation was entered on March 22, 1945, and the product was ordered destroyed.

7702. Adulteration and misbranding of fruit-flavored beverage sirups. U. S. v. 100 Cases of Nectar Syrup. Default decree of condemnation and destruction. (F. D. C. No. 13773. Sample No. 74040-F.)

LIBEL FILED: September 11, 1944, Eastern District of Washington.

ALLEGED SHIPMENT: On or about August 4, 1944, by the California Associated Products Co., Los Angeles, Calif.

PRODUCT: 100 cases, each containing 24 8-ounce bottles, of cherry-, orange-, lemon-, or grape-flavored beverage sirups at Walla Walla, Wash.

LABEL, IN PART: (Bottles) "Home Brand Nectar Syrup Cherry [or "Orange," "Lemon," or "Grape"] Flavor with Other Natural Flavors Just Add Cold Water Greene Products Company Los Angeles California."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), valuable constituents, concentrated cherry, orange, lemon, or grape juices, had been in whole

or in part omitted from the products; and, Section 402 (b) (4), artificial flavor, artificial color, and acids (cherry flavor); artificial color, orange oil and acids (orange flavor); artificial colors, lemon oil, and acids (lemon flavor); and artificial flavor, artificial color, and acids (grape flavor), had been added to the products and mixed and packed with them so as to make them appear to be nectar sirup flavors, containing substantial amounts of concentrated cherry, orange, lemon, or grape juices, which are better and of greater value than the products were.

Misbranding, Section 403 (a), the statements on the labels, (cherry flavor) "with Other Natural Flavors * * * Contains * * * Concentrated Cherry Juice, and Other Natural Flavors * * * can also be used to make marmalade and jelly"; (orange flavor) "Contains * * * Concentrated Orange Juice * * * making jelly and marmalade * * * Orange Juice—simply add water to this syrup and drink as orange juice"; (lemon flavor) "Contains * * * Concentrated Lemon Juice * * * can also be used to make marmalade and jelly"; and (grape flavor) "with Other Natural Flavors * * * Contains * * * Concentrated Grape Juice, and Other Natural Flavors * * * making jelly and marmalade * * * Grape Juice—simply by adding water to 'Nectar Syrup' drink as grape juice," were false and misleading as applied to products containing inconsequential amounts of concentrated fruit juices.

DISPOSITION: December 5, 1944. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

7703. Adulteration and misbranding of fruit-flavored beverage sirups. U. S. v. 12 Cases of Beverage Sirups. Default decree of condemnation and destruction. (F. D. C. No. 13770. Sample Nos. 74925-F to 74929-F, incl.)

LIBEL FILED: September 18, 1944, District of Oregon.

ALLEGED SHIPMENT: On or about August 4, 1944, by the Blue Moon Products Co., from Seattle, Wash.

PRODUCT: 12 cases, each containing 24 jars, of raspberry, strawberry, pineapple, cherry, and lemon and lime sirups, at Portland, Oreg. Examination showed that the cherry sirup was an artificially flavored sirup containing little or no fruit juice; that the other articles were fruit-flavored sirups containing little or no fruit juice; and that the raspberry sirup was undergoing fermentation.

LABEL, IN PART: "Blumas Raspberry [or "Strawberry," "Cherry," or "Pineapple"] * * * Contents 20 oz. Avd. Manufactured by Blumoon Food Products, Inc. Brooklyn, N. Y., and "Blumas Lemon & Lime Syrup * * * Contents 20 oz. Avd."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the raspberry sirup consisted in whole or in part of a decomposed substance; and, Section 402 (b) (2), the products described above had been substituted in whole or in part for raspberry sirup, strawberry sirup, cherry sirup, pineapple sirup, or lemon and lime sirup, which they were represented to be.

Misbranding, Section 403 (a), the statements "Raspberry [or "Strawberry," or "Pineapple"] * * * fruit and fruit flavor," and "Lemon & Lime Syrup," were false and misleading as applied to sirups flavored with fruit flavors and containing little or no fruit juice; Section 403 (a), the statement "Cherry Syrup" was false and misleading as applied to an artificially flavored sirup containing little or no fruit juice; and, Section 403 (c), the cherry sirup was an imitation of another food and its label failed to bear, in type of uniform size and prominence, the word "Imitation" and, immediately thereafter, the name of the food imitated.

DISPOSITION: November 15, 1944. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

7704. Adulteration and misbranding of fruit-flavored beverage sirups. U. S. v. 1,115 Jugs of Nutri Grape Syrup, and 399 Jugs of Nutri Cherry Syrup. Consent decree of condemnation. Products ordered released under bond. (F. D. C. No. 12644. Sample Nos. 76494-F, 76495-F.)

LIBEL FILED: June 13, 1944, District of New Jersey.

ALLEGED SHIPMENT: Between the approximate dates of March 24 and May 2, 1944, by the Victor Syrup Corporation, from Long Island City, N. Y.

PRODUCT: 1,514 1-gallon jugs of beverage sirups at Belleville, N. J.

LABEL, IN PART: (Jugs) "Nutri Grape Grape Wine Base A vintage flavor," and the design of a cluster of grapes; or "Nutri Cherry Nutri Fruit Base Finest Ingredients Superior Quality," and the design of a cluster of cherries.

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (4), artificial flavoring, artificial color, and acid simulating the flavor, color, and acidity of grape sirup or cherry sirup had been added to the products and mixed and packed with them so as to make them appear better or of greater value than they were.

Misbranding, Section 403 (a), the statements and designs in the labeling described above suggested that the products contained substantial amounts of grape or cherry juices, whereas they contained little or no grape or cherry juices; Section 403 (c), the products were imitations of grape sirup and cherry sirup, products containing substantial and characterizing amounts of fruit juices, and their labels failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; and, Section 403 (e) (2), they were fabricated from two or more ingredients and their labels failed to bear the common or usual name of the added acid.

DISPOSITION: December 19, 1944. The Victor Syrup Corporation, claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

7705. Adulteration and misbranding of beverage sirups. U. S. v. 99 Jugs of Chocolate Egg Cream Flavor, 19 Jugs of Orange Flavor, and 74 Jugs of Strawberry Flavor. Default decree of condemnation. Product ordered delivered to a charitable organization. (F. D. C. No. 12721. Sample Nos. 76934-F to 76936-F, incl.)

LIBEL FILED: June 24, 1944, District of New Jersey.

ALLEGED SHIPMENT: On or about May 9, 1944, by the S. J. Baron Corporation, from New York, N. Y.

PRODUCT: 192 1-gallon jugs of beverage sirups at Newark, N. J.

LABEL, IN PART: "Master Brands of America Manufacturers New York."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), (chocolate egg cream flavor) valuable constituents, eggs and cream, had been in whole or in part omitted from the product; and (orange and strawberry flavors) valuable constituents, orange or strawberry juices, had been in whole or in part omitted from the products; and, Section 402 (b) (4), (orange) orange oil flavoring, artificial color, and acid, and (strawberry) artificial flavoring, artificial color, and acid, both simulating the flavor, color, and acidity, respectively, of products containing substantial and characterizing proportions of the designated fruit juices, had been added to the products and mixed and packed with them so as to make them appear better or of greater value than they were.

Misbranding, Section 403 (a), (chocolate egg cream flavor) the name, "A Beverage Syrup Chocolate Egg Cream Flavor," was misleading since it implied that the product contained a substantial amount of eggs and cream, whereas it contained little, if any, of those ingredients; (orange flavor) the label statement, "A Beverage Syrup Orange Flavor * * * orange juice," was false and misleading as applied to a product which contained little or no orange juice; and (strawberry flavor) the label statement, "A Beverage Syrup Strawberry Flavor * * * strawberry juice and fruit," was false and misleading since it implied that the product was strawberry sirup made from strawberry fruit, strawberry juice, and sugar; and, Section 403 (c), (orange and strawberry flavors) the products were imitations of other foods and their labels failed to bear, in type of uniform size and prominence, the word "Imitation" and, immediately thereafter, the name of the food imitated, i. e., orange or strawberry sirup.

DISPOSITION: October 23, 1944. No claimant having appeared, judgment of condemnation was entered and the products were ordered delivered to a charitable organization, after destruction of the labels.

7706. Adulteration and misbranding of fruit-flavored beverage sirups. U. S. v. 39 Cases of Nectar Syrup (and 1 other seizure action against beverage bases). Default decrees of condemnation. Portion ordered delivered to a charitable or public institution; remainder ordered destroyed. (F. D. C. Nos. 13070, 13400. Sample Nos. 71266-F to 71269-F, incl., 71619-F.)

LIBELS FILED: On or about August 15 and September 6, 1944, Western District of Washington and District of Oregon.

ALLEGED SHIPMENT: On or about April 19 and 22, 1944, by the Empire Freight Co., from Los Angeles, Calif.

PRODUCT: 39 cases, each containing 24 8-ounce bottles, of beverage sirups at Everett, Wash., and 163 cases, each containing 24 8-ounce bottles, of beverage sirups at Salem, Oreg.

LABEL, IN PART: (Bottles) "Home Brand Nectar Syrup Cherry [or "Orange," "Lemon," or "Grape"] Flavor with Other Natural Flavors * * * Greene Products Company Los Angeles, California."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), valuable constituents, concentrated cherry, orange, lemon, or grape juices, had been in whole or in part omitted from the products; Section 402 (b) (4), (cherry flavor) artificial flavor, artificial color, and acids; (orange flavor) artificial color, orange oil, and acids; (lemon flavor) artificial color, lemon oil, and acids; and (grape flavor) artificial color, artificial flavor, and acids had been added to and mixed and packed with the products so as to make them appear to be cherry, orange, lemon, or grape flavor sirups containing substantial amounts of concentrated fruit juices, which are better and of greater value than the products were.

Misbranding, Section 403 (a), the statements on the labels, (cherry flavor) "with Other Natural Flavors * * * Contains * * * Concentrated Cherry Juice, and Other Natural Flavors * * * can also be used to make marmalade and jelly"; (orange flavor) "Contains * * * Concentrated Orange Juice * * * making jelly and marmalade * * * Orange Juice—simply add water to this syrup and drink as orange juice"; (lemon flavor) "Contains * * * Concentrated Lemon Juice * * * can also be used to make marmalade and jelly"; and (grape flavor) "with Other Natural Flavors * * * Contains * * * Concentrated Grape Juice, and Other Natural Flavors * * * making jelly and marmalade * * * Grape Juice—simply by adding water to 'Nectar Syrup' drink as grape juice," were false and misleading as applied to products containing inconsequential amounts of concentrated fruit juices.

DISPOSITION: October 31 and November 28, 1944. No claimant having appeared, judgments of condemnation were entered and the lots at Salem were ordered delivered to a charitable or public institution, and the remaining lot was ordered destroyed.

7707. Adulteration and misbranding of grape juice. U. S. v. 7 Cases of Grape Juice. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 12953. Sample No. 81813-F.)

LIBEL FILED: On or about July 15, 1944, District of Connecticut.

ALLEGED SHIPMENT: On or about June 8, 1944, by the Goodman Products Co., Brooklyn, N. Y.

PRODUCT: 7 cases, each containing 12 1-quart bottles, of grape juice at New Haven, Conn.

LABEL, IN PART: (Bottles) "Paradise Brand * * * Pure Concord Grape Juice."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), an acidulated and sweetened mixture of grape juice and water had been substituted in whole or in part for "Grape Juice Sugar Added," which the product was represented to be; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to reduce its quality or strength.

Misbranding, Section 403 (a), the statements, "Cont. 1 Fl. Quart Pure Concord Grape Juice Sugar Added This Grape Juice is the Pure Juice of the Ripe Concord Grape," were false and misleading as applied to an acidulated and sweetened mixture of grape juice and water which was short of the declared volume; and, Section 403 (e) (2), the product was a food in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents since the bottles contained less than "1 Fl. Quart," the volume declared.

DISPOSITION: December 4, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions, after the labels had been removed.

7708. Adulteration and misbranding of grape juice. U. S. v. 66 Cases of Grape Juice. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 12695. Sample No. 76220-F.)

LIBEL FILED: June 24, 1944, District of New Jersey.

ALLEGED SHIPMENT: On or about April 21, 1944, by the Goodman Products Co., from Brooklyn, N. Y.

PRODUCT: 66 cases, each containing 12 bottles, of grape juice at Newark, N. J.

LABEL, IN PART: (Bottles) "Paradise Brand."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), an acidulated and sweetened mixture of grape juice and water had been substituted in whole or in part for "Grape Juice Sugar Added"; and, Section 402 (b) (4), water had been added to or mixed or packed with the product so as to reduce its quality or strength.

Misbranding, Section 403 (a), the statements, "Cont. 1 Fl. Quart Pure Concord Grape Juice Sugar Added This Grape Juice is the Pure Juice of the Ripe Concord Grape," appearing in the labeling, were false and misleading as applied to an acidulated and sweetened mixture of grape juice and water which was short of the declared volume; Section 403 (e) (2), the product was in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: November 6, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution, after destruction of the labels as directed by the Food and Drug Administration.

7709. Adulteration and misbranding of orange juice concentrate (beverage base). U. S. v. 11 Jugs of Orange Juice Concentrate. Default decree of condemnation. Product ordered delivered to a charitable organization. (F. D. C. No. 13329. Sample No. 82175-F.)

LIBEL FILED: August 15, 1944, District of New Jersey.

ALLEGED SHIPMENT: On or about July 13 and 17, 1944, by the Salient Flavoring Corporation, from New York, N. Y.

PRODUCT: 11 1-gallon jugs of orange juice concentrate at Newark, N. J.

LABEL, IN PART: (Jugs) "Orange Juice Concentrate No. 16 Artificially Colored 1 Gallon to 16 Gallons 32 Baume Syrup * * * Contains the Necessary Citric Acid and Benzoate of Soda for the Finished Product. Contains Orange Juice, Natural Oils of Orange Emulsified in Gum Arabic, Citric Acid and Preserved with 1/10 of 1% Benzoate of Soda."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, concentrated orange juice, had been in part omitted from the product; Section 402 (b) (2), an artificially colored mixture of water, sugar, acid, vegetable gum, brominated vegetable oil, orange peel oil, and benzoate of soda, containing an inconsequential amount of concentrated orange juice, had been substituted in whole or in part for concentrated orange juice; Section 402 (b) (3), inferiority had been concealed by the addition of artificial color, orange peel oil, and acid; and, Section 402 (b) (4), artificial color, orange peel oil, and acid had been added to the product and mixed and packed with it so as to make it appear to be concentrated orange juice, a product which is better and of greater value than the article was.

Misbranding, Section 403 (a), the label statement, "Orange Juice Concentrate," was false and misleading as applied to a product which contained an inconsequential amount of concentrated orange juice; Section 403 (c), the product was an imitation of concentrated orange juice, and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; and, Section 403 (i) (2), it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each ingredient, since brominated vegetable oil, water, and sugar were not declared.

DISPOSITION: October 23, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable organization, after destruction of the labels as directed by the Food and Drug Administration.

7710. Adulteration of distilled spirits. U. S. v. 156 Cases of Distilled Spirits. Default decree of condemnation and destruction. (F. D. C. No. 14449. Sample No. 85381-F.)

LIBEL FILED: November 21, 1944, District of Delaware.

ALLEGED SHIPMENT: On or about June 29, 1944, by the Overbrook Co., Inc., from Baltimore, Md.

PRODUCT: 156 cases, each containing 24 1-pint bottles, of distilled spirits, at Wilmington, Del.

LABEL, IN PART: "Imported Nobility 85 Proof Distilled Spirits."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of an excess of fusel oil, which rendered it nonpotable and repulsive.

DISPOSITION: December 13, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

CEREALS AND CEREAL PRODUCTS*

ALIMENTARY PASTES**

7711. Adulteration and misbranding of egg noodles. U. S. v. National Foods, Inc. Plea of guilty. Fine, \$440 and costs. (F. D. C. No. 11345. Sample Nos. 33483-F to 33485-F, incl., 33694-F, 33695-F, 34153-F, 34211-F, 44242-F, 45395-F, 56481-F to 56484-F, incl.)

INFORMATION FILED: May 26, 1944, Western District of Pennsylvania, against National Foods, Inc., Pittsburgh, Pa.

ALLEGED SHIPMENT: Between the approximate dates of March 1 and June 28, 1943, from the State of Pennsylvania into the States of New York and Ohio.

LABEL, IN PART: (Portion) "Marjorie Daw Pure Egg Noodles."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent of the food, egg, had been in whole or in part omitted since the product was represented to contain 5½ percent of egg solids but contained a smaller amount; Section 402 (b) (2), artificially colored noodles, deficient in egg solids, had been substituted in whole or in part for pure egg noodles containing 5½ percent of egg solids; Section 402 (b) (3), the article was inferior to egg noodles containing 5½ percent egg solids, and its inferiority was concealed by the addition of artificial color, tartrazine; and, Section 402 (b) (4), artificial color had been added thereto or had been mixed or packed therewith so as to make it appear better or of greater value than it was.

Misbranding, Section 403 (a), the statements in the labeling, "Pure Egg Noodles," or "5½% [or "5.5%"] Egg Solids—No Artificial Coloring [or "no Artificial Coloring Added"]," were false and misleading.

DISPOSITION: November 10, 1944. A plea of guilty having been entered, the defendant was fined \$440 and costs.

7712. Adulteration of macaroni and spaghetti. U. S. v. 350 Cartons of Macaroni and 86 Cartons of Spaghetti. Default decree of condemnation and destruction. (F. D. C. No. 14614. Sample Nos. 73771-F to 73773-F, incl., 73967-F.)

LIBEL FILED: December 6, 1944, District of Arizona.

ALLEGED SHIPMENT: On or about August 28, 1944, by the American Beauty Macaroni Co., Denver, Colo.

PRODUCT: 250 cartons, each containing 24 7-ounce packages, and 100 cartons, each containing 24 8-ounce packages, of macaroni, and 36 cartons, each containing 12 16-ounce packages, and 50 cartons, each containing 24 8-ounce packages, of spaghetti at Phoenix, Ariz.

LABEL, IN PART: "American Beauty."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of beetles, larvae, and cast skins.

DISPOSITION: February 5, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

*See also No. 7765.

**See also Nos. 7746, 7899, 7900.

7713. Adulteration of macaroni and spaghetti. U. S. v. 170 Cartons of Macaroni and 145 Cartons of Spaghetti. Default decree of condemnation and destruction. (F. D. C. No. 14634. Sample Nos. 73776-F to 73779-F, incl.)

LIBEL FILED: December 13, 1944, District of Arizona.

ALLEGED SHIPMENT: On or about August 30, 1944, by the Viviano & Brothers Macaroni Manufacturing Co., St. Louis, Mo.

PRODUCT: 170 cartons, each containing 24 7-ounce packages, of macaroni, and 145 cartons, each containing 24 7-ounce packages, of spaghetti, at Phoenix, Ariz.

LABEL, IN PART: (Packages) "De Luxe Macaroni [or "Elbow Macaroni," "Spaghetti," or "Elbow Spaghetti"]."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of beetles, larvae, insect fragments, and webbing.

DISPOSITION: February 9, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

7714. Adulteration of Tenderoni. U. S. v. 37 Cases and 82 Cases of Tenderoni. Default decrees of destruction. (F. D. C. Nos. 14722, 14917. Sample Nos. 80992-F, 80998-F.)

LIBELS FILED: On or about December 12 and 29, 1944, Western District of Missouri.

ALLEGED SHIPMENT: On or about October 28 and November 1, 1944, by the Arma Elevator Co., from Arma and Pittsburg, Kans.

PRODUCT: 119 cases, each containing 24 6-ounce boxes, of Tenderoni at Kansas City, Mo.

LABEL, IN PART: "Van Camp's Tenderoni."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, cast skins, and beetles.

DISPOSITION: January 26 and 29, 1945. No claimant having appeared, judgments were entered ordering that the product be destroyed. It was used for hog feed.

7715. Adulteration of Tenderoni. U. S. v. 223 Cases of Tenderoni. Default decree of destruction. (F. D. C. No. 14721. Sample No. 80991-F.)

LIBEL FILED: On or about December 12, 1944, Western District of Missouri.

ALLEGED SHIPMENT: On or about September 23, 1944, by the Topeka Wholesale Grocery Co., Kansas City, Mo.

PRODUCT: 223 cases, each containing 24 6-ounce boxes, of Tenderoni at Kansas City, Mo.

LABEL, IN PART: "Van Camp's Tenderoni."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles.

DISPOSITION: January 29, 1945. No claimant having appeared, judgment was entered ordering the product destroyed.

BAKERY PRODUCTS

7716. Adulteration of bread. U. S. v. Langendorf United Bakeries, Inc. Plea of nolo contendere. Fine, \$500 on one count, sentence suspended on other two counts. (F. D. C. No. 12603. Sample Nos. 13741-F, 13742-F, 39555-F.)

INFORMATION FILED: November 10, 1944, Southern District of California, against the Langendorf United Bakeries, Inc., Los Angeles, Calif.

ALLEGED SHIPMENT: On or about April 6 and 20, 1944, from the State of California into the States of Arizona and Nevada.

LABEL, IN PART: "Langendorf Sliced Wheat Bread [or "Enriched Sliced White Bread"]," or "Dr. Penland's L Vitamin B₁ Wheat Bread."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of one or more of the following: Larvae, larva fragments, pupae, insect heads, adult insects, cast skins, insect head and thorax, adult insect fragments including large body parts, skin, legs, and antennae, a rodent hair, a hair fragment resembling a rodent hair, and a feather barbule; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 26, 1944. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$500 on the first count was imposed. Pronouncement of sentence on the remaining two counts was suspended for 2 years, upon condition that the provisions of the Food, Drug, and Cosmetic Act be complied with by the defendant.

7717. Adulteration of cookies. U. S. v. 25 Cases, 25 Cases, 25 Cases, and 5 Cases of Cookies. Default decrees of condemnation. Products ordered sold. (F. D. C. No. 14714. Sample Nos. 90116-F to 90119-F, incl.)

LIBELS FILED: On or about December 6, 1944, Eastern District of Missouri.

ALLEGED SHIPMENT: Between on or about December 14, 1943, and January 5, 1944, by Thomas and Clarke, from Peoria, Ill.

PRODUCT: 25 cases, each containing approximately 20 pounds; 25 cases, each containing approximately 22 pounds; 25 cases, each containing approximately 11 pounds; and 5 cases, each containing approximately 16 pounds, of cookies, at St. Louis, Mo.

LABEL, IN PART: "Shortbread," "Chocolate Shorties," "Marshmallow Cookies," or "Choc. Krunch."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of weevils, larvae, and insect fragments.

DISPOSITION: Between January 17 and 19, 1945. No claimant having appeared, judgments of condemnation were entered and the products were ordered sold, under the direction of the Federal Security Agency, to be disposed of for purposes other than human consumption. On February 3, 1945, two portions were ordered destroyed since no purchaser had appeared.

7718. Adulteration of bakery products. U. S. v. 90 Boxes of Ice Cream Cones, and various amounts of other bakery products. Default decree of condemnation. Products ordered delivered to a public institution, for use as animal feed. (F. D. C. No. 14981. Sample Nos. 98702-F, 98707-F, 98708-F, 98710-F, 98718-F, 98719-F, 98724-F.)

LIBEL FILED: January 10, 1945, Eastern District of Arkansas.

ALLEGED SHIPMENT: Between the approximate dates of November 25 and December 14, 1944, by the National Biscuit Co., from Memphis, Tenn.

PRODUCT: 90 boxes, each containing 250 ice cream cones; 30 boxes, each containing 6 8¾-ounce packages, of devil's food squares; 110 boxes, each containing 6 7½-ounce packages, of vanilla crests; 36 boxes, each containing 6 9¼-ounce packages, of macaroon twigs; 107 bundles, each containing 6 1-pound cartons, of graham crackers; 74 bundles, each containing 2 2-pound cartons, of graham crackers; and 11 7-pound boxes of sugar cookies, at Little Rock, Ark.

LABEL, IN PART: "Waffle Cuplets For Ice Cream, Ices and Frozen Desserts," or "Nabisco Devil's Food Squares [or "Fancy Crests Vanilla," "Macaroon Twigs," "Sugar Honey Maid Graham Crackers," "Graham Crackers," or "Old Fashion Sugar Cookies"]."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insect and rodent hair fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: January 26, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered delivered to a public institution, for use as animal feed.

CORN MEAL

7719. Adulteration of corn meal. U. S. v. Josey-Miller Co., Inc., and Wiley H. Culpepper. Pleas of guilty. Each defendant fined \$100 on count 1 and \$500 on count 2. Fine on count 2 suspended for 3 years. (F. D. C. No. 11402. Sample Nos. 41444-F, 61476-F.)

INFORMATION FILED: October 18, 1944, Eastern District of Texas, against the Josey-Miller Co., Inc., Beaumont, Tex., and Wiley H. Culpepper, treasurer and manager.

ALLEGED SHIPMENT: On or about February 10 and March 11, 1944, from the State of Texas into the State of Louisiana.

LABEL, IN PART: "Jo-Mil Tested Cream Meal."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of adult storage insects and larvae, cast skins, insect parts and fragments, head capsules, rodent excreta fragments with hair, a feather fragment, and an insect pellet; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 22, 1945. Pleas of guilty having been entered, the defendants were each fined \$100 on count 1 and \$500 on count 2. The sentences on count 2 were suspended for 3 years, upon condition that the defendants comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

7720. Adulteration of corn meal. U. S. v. 233 Bags of Corn Meal. Decree of forfeiture. Product ordered released under bond. (F. D. C. No. 14982. Sample No. 24101-H.)

LIBEL FILED: January 11, 1945, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about October 30, 1944, from Fort Worth, Tex.

PRODUCT: 233 25-pound bags of corn meal at New Orleans, La., in possession of the Bewley Mills Warehouse. The article was stored under insanitary conditions after shipment. The bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the article contained larvae, insect fragments, rodent hairs, excreta fragments, and urine.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 9, 1945. The Bewley Mills, claimant, having admitted the allegations of the libel, judgment of forfeiture was entered and the product was ordered released under bond to be denatured and sold as livestock and poultry feed, under the supervision of the Food and Drug Administration.

7721. Adulteration of corn meal. U. S. v. 2,904 Bags of Corn Meal. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 15009. Sample No. 24122-H.)

LIBEL FILED: January 23, 1945, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about November 20, 1944, by the Clement Grain Co., from Waco, Tex.

PRODUCT: 2,904 10-pound or 25-pound bags of corn meal at New Orleans, La.

LABEL, IN PART: "Polka Dot Cream Meal."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent excreta fragments, and rodent hair fragments.

DISPOSITION: February 20, 1945. The Clement Grain Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured for use as animal feed, under the supervision of the Food and Drug Administration.

7722. Adulteration of corn meal. U. S. v. 1,980 Bags and 1,550 Bags of Corn Meal. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14834. Sample Nos. 96902-F, 96903-F.)

LIBEL FILED: January 2, 1945, Northern District of Mississippi.

ALLEGED SHIPMENT: On or about November 28, 1944, by the Morrison Milling Co., from Denton, Tex.

PRODUCT: 1,980 10-pound bags and 1,550 25-pound bags of corn meal at Greenwood, Miss.

LABEL, IN PART: "Morrison's Premium Fresh Ground Cream Meal."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, rodent excreta fragments, and insect fragments.

DISPOSITION: February 23, 1945. The Greenwood Grocery Co., Greenwood, Miss., claimant, having consented to the entry of the decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into animal feed, under the supervision of the Food and Drug Administration.

FLOUR*

Nos. 7723 to 7743 report actions involving flour that was insect- or rodent-infested, or both. (In those cases in which the time of contamination was known that fact is stated in the notice of judgment.)

7723. Adulteration of flour. U. S. v. 33 Bags and 60 Bags of Flour. Default decrees of condemnation. Product ordered disposed of in compliance with the law. (F. D. C. Nos. 15170, 15173. Sample Nos. 24177-H, 24179-H.)

LIBELS FILED: January 30 and 31, 1945, Western District of Louisiana.

ALLEGED SHIPMENT: On or about October 20 and November 17, 1944, from White Water and Ottawa, Kans.

PRODUCT: 60 25-pound bags and 33 100-pound bags of flour at Shreveport, La., in possession of the Salley Grocer Co. The article was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and rodent urine stains were observed on them. Examination showed that the article contained rodent excreta and rodent urine.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 19 and 20, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered disposed of in compliance with the law by the United States marshal. It was used for hog feed.

7724. Adulteration of flour. U. S. v. 524 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15066. Sample No. 6481-H.)

LIBEL FILED: On or about January 24, 1945, District of New Jersey.

ALLEGED SHIPMENT: On or about October 10, 1944, from Staunton, Va.

PRODUCT: 524 100-pound bags of flour at New Market, N. J., in the possession of the Middlesex Feed and Machinery Co. The product was stored under insanitary conditions after shipment. The bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the article contained rodent hair fragments.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 31, 1945. Thomas R. Van Boskerck and Irwin Rappaport, doing business as George W. Van Boskerck & Son, New York, N. Y., having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be denatured for industrial use under the supervision of the Food and Drug Administration.

7725. Adulteration of flour. U. S. v. 701 Bags of Flour. Default decree of condemnation. Product ordered sold. (F. D. C. No. 13717. Sample Nos. 89806-F, 89807-F, 89818-F.)

LIBEL FILED: September 25, 1944, Western District of Tennessee.

ALLEGED SHIPMENT: Between the approximate dates of July 31 and August 11, 1944, from Atchison, Kans., and Kansas City, Mo.

PRODUCT: 701 100-pound bags of flour at Memphis, Tenn., in the possession of the Rose Warehouse Co. This product had been stored, after shipment, under insanitary conditions. Some of the bags were rodent-gnawed, and rodent pellets were observed on them. Examination showed that the product contained rodent excreta, rodent hairs, and insect fragments.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

*See also No. 7746.

DISPOSITION: January 25, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, under the direction of the Federal Security Agency, to be denatured so that it could not be disposed of for human consumption.

7726. Adulteration of flour. U. S. v. 54 Sacks of Flour. Default decree of condemnation and destruction. (F. D. C. No. 13491. Sample No. 90290-F.)

LIBEL FILED: September 1, 1944, Western District of Arkansas.

ALLEGED SHIPMENT: On or about April 18, 1944, by the Ross Milling Co., Ottawa, Kans.

PRODUCT: 54 50-pound sacks of flour at Warren, Ark.

LABEL, IN PART: "Ross Red Fox Flour made from Choice Kansas Wheat."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance since it contained larvae, pupae, cast skins, and insect fragments, and was therefore unfit for human consumption.

DISPOSITION: February 9, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. Destruction was effected by mixing the product with cow feed.

7727. Adulteration of flour. U. S. v. 30 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14103. Sample No. 59892-F.)

LIBEL FILED: November 17, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: On or about November 28, 1942, by the Wabash Roller Mill Co., from Wabasha, Minn.

PRODUCT: 30 98-pound bags of flour at Chicago, Ill.

LABEL, IN PART: "Riverside Mills Fancy Bakers Josie Flour."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and webbing.

DISPOSITION: January 16, 1945. Joseph T. Shuffitowski, Inc., Chicago, Ill., claimant, having admitted the facts in the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

7728. Adulteration of flour. U. S. v. 168 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14154. Sample No. 59896-F.)

LIBEL FILED: November 13, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: On or about September 2, 1943, by the St. Cloud Milling Co., from St. Cloud, Minn.

PRODUCT: 168 98-pound bags of flour at Chicago, Ill.

LABEL, IN PART: "Old Honesty Flour Bleached."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, rodent pellets, and insect fragments.

DISPOSITION: January 16, 1945. Joseph T. Shuffitowski, Inc., claimant, having admitted the facts in the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

7729. Adulteration of flour. U. S. v. 450 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14104. Sample No. 59893-F.)

LIBEL FILED: November 17, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: On or about December 7, 1943, by the Cannon Valley Milling Co., from Minneapolis, Minn.

PRODUCT: 450 100-pound bags of flour, at Chicago, Ill.

LABEL, IN PART: "Northwestern King of Minnesota Flour Bleached."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles and larvae.

DISPOSITION: January 16, 1945. Joseph T. Shuffitowski, Inc., claimant, having admitted the facts in the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

7730. Adulteration of flour. U. S. v. 500 Bags and 400 Bags of Flour (and 1 other seizure action against flour). Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 14101, 14142. Sample Nos. 59886-F, 59890-F, 59897-F.)

LIBELS FILED: November 13 and 17, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: On or about September 21 and November 5, 1943, and January 13, 1944, by the Tri-State Milling Co., from Rapid City, S. Dak.

PRODUCT: 900 100-pound bags and 500 100-pound bags of flour at Chicago, Ill.

LABEL, IN PART: "Dakota's Best Bleached Flour," or "Bleached Flour Dakota's Best."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles and larvae.

DISPOSITION: January 16, 1945. Joseph T. Shuffitowski, Inc., Chicago, Ill., claimant, having admitted the facts in the libel, judgments of condemnation were entered and the products were ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

7731. Adulteration of cone flour. U. S. v. 640 Bags of Cone Flour. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 14965. Sample No. 60756-F.)

LIBEL FILED: January 8, 1945, Northern District of California.

ALLEGED SHIPMENT: On or about November 13, 1944, from Portland, Oreg.

PRODUCT: 640 100-pound bags of cone flour at Emeryville, Calif., in the possession of the Maryland Pacific Cone Co. This product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the article contained rodent excreta and rodent urine.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 18, 1945. The Maryland Pacific Cone Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Food and Drug Administration.

7732. Adulteration of pastry flour. U. S. v. 800 Bags of Pastry Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15208. Sample No. 17104-H.)

LIBEL FILED: On or about February 8, 1945, Northern District of Illinois.

ALLEGED SHIPMENT: On or about November 28, 1944, from Spokane, Wash.

PRODUCT: 800 100-pound bags of pastry flour at Chicago, Ill., in possession of the Superior Biscuit Co., Inc. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the article contained rodent excreta.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 13, 1945. The Superior Biscuit Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and denatured under the supervision of the Food and Drug Administration.

7733. Adulteration of pastry flour. U. S. v. 73 Bags of Pastry Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14759. Sample No. 90149-F.)

LIBEL FILED: December 11, 1944, Western District of Arkansas.

ALLEGED SHIPMENT: On or about July 28, 1944, by the Arkansas City Flour Mills, Arkansas City, Kans.

PRODUCT: 73 50-pound bags of pastry flour at Gurdon, Ark.

LABEL, IN PART: "Bleached Flour * * * Pastry Flour Supreme White Beauty Highest Grade Short Patent."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance since it contained beetles, larvae, and cast skins, and was therefore unfit for human consumption.

DISPOSITION: February 13, 1945. B. M. Canon, trading as the B. M. Canon Feed Co., Gurdon, Ark., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured under the supervision of the Food and Drug Administration

7734. Adulteration of phosphated flour. U. S. v. 160 Bags and 160 Bags of Flour. Consent decree of condemnation and destruction. (F. D. C. No. 14826. Sample No. 96906-F.)

LIBEL FILED: January 9, 1945, Northern District of Mississippi.

ALLEGED SHIPMENT: Between the approximate dates of January 20 and August 30, 1944, by the Abilene Flour Mills Co., from Abilene, Kans.

PRODUCT: 160 25-pound bags and 160 12-pound bags of flour at Clarksdale, Miss.

LABEL, IN PART: "Lite Flake Phosphated Flour Bleached."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance since it contained insects and larvae.

DISPOSITION: February 9, 1945. The consignee having consented to the entry of the decree, judgment of condemnation was entered and the product was ordered destroyed.

7735. Adulteration of phosphated flour. U. S. v. 180 Bags and 64 Bags of Flour. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 13450. Sample Nos. 80597-F, 80598-F.)

LIBEL FILED: August 29, 1944, Eastern District of Arkansas.

ALLEGED SHIPMENT: On or about March 3 and April 28, 1944, by the Western Star Mill Co., from Salina, Kans.

PRODUCT: 244 50-pound bags of flour at Fordyce, Ark.

LABEL, IN PART: "Genuine Fairy Flake Phosphated Flour Bleached."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, pupae, cast skins, and insect fragments.

DISPOSITION: September 29, 1944. Robert H. Mays, Fordyce, Ark., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured under the supervision of the Food and Drug Administration. It was used for animal feed.

7736. Adulteration of phosphated flour and plain flour. U. S. v. 184 Sacks of Flour (and 2 other seizure actions against flour). Decrees of condemnation. Portion of products ordered released under bond; remainder ordered delivered to public institutions, for use as animal feed. (F. D. C. Nos. 13457, 13489, 14169. Sample Nos. 89674-F, 89675-F, 90291-F, 90295.)

LIBELS FILED: August 30 and September 1, 1944, Eastern District of Arkansas; November 1, 1944, Western District of Arkansas.

ALLEGED SHIPMENT: On or about March 3 and 5 and April 1, 1944, by the Arkansas City Flour Mills, from Arkansas City, Kans.

PRODUCT: 184 sacks and 81 sacks, each containing 50 pounds, of flour at Monticello, Ark., and 97 bags and 140 bags, each containing 25 pounds, of flour at Harrison, Ark.

LABEL, IN PART: "Phosphated Bleached Flour Spotless Highest Patent," "Bleached Stout's Delicious Flour Enriched With Vitamins And Iron," "Boss Biscuit Flour * * * Bleached," or "Bleached Flour Gold Bond Highest Patent."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of larvae, pupae, cast skins, insect fragments, rodent hair fragments, or weevils.

DISPOSITION: November 17, 1944. The Harrison Grocer Co., Harrison, Ark., having appeared as claimant for the lot at Harrison, judgment of condemnation was entered and the product was ordered released under bond for denaturing, under the supervision of the Food and Drug Administration, so that it could not be used for human consumption. On October 9, 1944, no claimant having appeared for the remaining lots, judgments of condemnation were entered and the product was ordered delivered to public institutions, for use as animal feed.

7737. Adulteration of phosphated flour and plain flour. U. S. v. 76 Bags of Phosphated Flour (and 4 other seizure actions against plain flour and phosphated flour). Decrees of condemnation. Products ordered released under bond. (F. D. C. Nos. 13244, 13263, 13514, 13658, 13751. Sample Nos. 89925-F, 89927-F, 89930-F, 90301-F to 90303-F, incl., 90305-F, 90306-F, 90319-F.)

LIBELS FILED: Between August 16 and September 27, 1944, Western and Eastern Districts of Arkansas.

ALLEGED SHIPMENT: Between the approximate dates of March 20, 1943, and July 25, 1944, by the Quaker Oats Co., from St. Joseph, Mo.

PRODUCT: 76 50-pound bags, 24 25-pound bags, and 25 24-pound bags of phosphated flour at Fayetteville, Ark.; and 275 50-pound bags, 1,104 10-pound bags, and 200 24-pound bags of plain flour, and 219 50-pound bags and 97 100-pound bags of phosphated flour at Pine Bluff, Ark.

LABEL, IN PART: "Mother's Enriched [or "Sea Breeze Enriched," or "Dream Belle"] Phosphated Flour Bleached," "Bleached White Plane Flour," "White Rose Flour Calcium Phosphate Added," or "Silbernagel's 7 11 Highest Patent Flour Bleached."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of weevils, larvae, pupae, cast skins, and insect fragments, and rodent pellets and rodent hair fragments.

DISPOSITION: On October 9, 1944, the Ritchie Grocer Co., Pine Bluff, Ark., claimant for a number of the lots at Pine Bluff, and Silbernagel & Co., Pine Bluff, Ark., claimant for the remainder of the Pine Bluff lots, having admitted the allegations of the respective libels, judgments of condemnation were entered and the products were ordered released under bond to be denatured. On December 6, 1944, no claim having been entered for the lots at Fayetteville, judgments of condemnation were entered and the products were ordered destroyed. Before the execution of judgment, the McCord Wholesale Grocery Co., Fayetteville, Ark., entered its appearance and filed a petition for intervention, and on January 2, 1945, the court ordered the products released under bond to be denatured, under the supervision of the Food and Drug Administration, so that they could not be used for human consumption.

7738. Adulteration of phosphated flour. U. S. v. 413 Bags of Phosphated Flour (and 1 other seizure action against phosphated flour). Portion condemned and ordered released under bond; remainder ordered destroyed. (F. D. C. Nos. 13423, 13429. Sample Nos. 80586-F to 80589-F, incl., 89935-F, 89936-F.)

LIBEL FILED: On or about August 25 and October 11, 1944, Eastern District of Arkansas and Western District of Missouri.

ALLEGED SHIPMENT: Between the approximate dates of May 3, 1943, and March 1, 1944, by the Shellabarger Mill and Elevator Co., from Salina, Kans.

PRODUCT: 413 48-pound bags of flour at Fordyce, Ark., and 150 25-pound bags of flour at Lebanon, Mo. Analysis indicated that the product contained larvae and cast skins.

LABEL, IN PART: "Shellabarger's Peacock Bleached Phosphated [or "Golden Belt Calcium Phosphate Added Bleached," "Golden Belt Phosphated," "ABC Bleached Phosphated," or "Blue Ribbon Calcium Phosphate Added"] Flour."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance.

DISPOSITION: October 2, 1944. No claimant having appeared for the Lebanon lot, judgment was entered ordering the product destroyed. On October 9, 1944, the Dallas Wholesale Grocery Co., Fordyce, Ark., claimant for the Fordyce lot, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured under the supervision of the Food and Drug Administration.

7739. Adulteration of self-rising flour and phosphated flour. U. S. v. 69 Bags, 22 Bags, and 400 Bags of Flour. Consent decree of condemnation and destruction. (F. D. C. No. 14827. Sample Nos. 96904-F, 96905-F.)

LIBEL FILED: January 2, 1945, Northern District of Mississippi.

ALLEGED SHIPMENT: Between the approximate dates of November 18, 1943, and September 23, 1944, by the Nebraska Consolidated Mills Co., from Elkhorn, Grand Island, and Fremont, Nebr.

PRODUCT: 91 100-pound bags and 400 10-pound bags of flour at Clarksdale, Miss.

LABEL, IN PART: "Mother's Best Self-Rising [or "Phosphated White"] Flour Bleached."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances since they contained insects and larvae.

DISPOSITION: February 9, 1945. The consignee having consented to the entry of the decree, judgment of condemnation was entered and the products were ordered destroyed.

7740. Adulteration of self-rising flour. U. S. v. 800 Bags of Self-Rising Flour. Default decree of condemnation. Product ordered delivered to a Federal institution, for use as animal feed. (F. D. C. No. 14944. Sample No. 63658-F.)

LIBEL FILED: January 2, 1945, Middle District of Georgia.

ALLEGED SHIPMENT: On or about June 3, 1944; by the Chickasha Milling Co., from Chickasha, Okla.

PRODUCT: 800 10-pound bags of self-rising flour at Valdosta, Ga.

LABEL, IN PART: "Always Good Dixie Queen Self-Rising Flour."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and cast skins.

DISPOSITION: February 3, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal institution, for use as animal feed.

7741. Adulteration of self-rising flour and plain flour. U. S. v. 74 Sacks of Plain Flour and 276 Bags and 72 Bags of Self-Rising Flour. Decrees of condemnation. One lot ordered released under bond; remaining lot ordered destroyed. (F. D. C. Nos. 14151, 14473. Sample Nos. 61772-F, 62296-F, 62297-F.)

LIBELS FILED: October 28 and November 13, 1944, Middle District of Alabama and Northern District of Mississippi.

ALLEGED SHIPMENT: Between the approximate dates of August 26, 1943, and May 13, 1944, by the Fuhrer-Ford Milling Co., Mt. Vernon, Ind.

PRODUCT: 74 50-pound sacks of plain flour at New Brockton, Ala., and 276 10-pound bags and 72 12-pound bags of self-rising flour at West Point, Miss.

LABEL, IN PART: "Enriched * * * Peerless Roller Mills * * * Highest Patent Dictator Flour," or "Bleached Golden Rose Self Rising Flour."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects, weevils, and larvae.

DISPOSITION: February 12, 1945. S. T. Jones, New Brockton, Ala., claimant for the New Brockton lot, having admitted that the product was adulterated, judgment of condemnation was entered and the product was ordered released under bond to be denatured or manufactured into animal feed, under the supervision of the Food and Drug Administration. On February 16, 1945, no claimant having appeared for the West Point lots, judgment of condemnation was entered and the product was ordered destroyed.

7742. Adulteration of soy flour. U. S. v. 245 Bags, 389 Bags, and 200 Bags of Soy Flour. Decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 13636, 14201, 14535. Sample Nos. 61376-F, 62166-F, 62359-F.)

LIBELS FILED: September 8 and November 6 and 28, 1944, Southern and Western Districts of Texas and Eastern District of Louisiana.

ALLEGED SHIPMENT: Between the approximate dates of April 30, 1943, and January 22, 1944, by the A. E. Staley Manufacturing Co., from Decatur, Ill.

PRODUCT: 245 100-pound bags of soy flour at Houston, Tex., 389 100-pound bags at San Antonio, Tex., and 200 100-pound bags at New Orleans, La.

LABEL, IN PART: "Staley's Soy Flour"; (on some bags) "Especially processed for meat packers."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, larvae fragments, insect fragments, weevils, rodent excreta, and beetles.

DISPOSITION: Between December 7, 1944, and January 4, 1945. The Gebhardt Chili Powder Co., San Antonio, Tex., the Meyer Grain Co., Harris County, Tex., and the Dixie Packing Co., Inc., New Orleans, La., having appeared as claimants for the lots at San Antonio, Houston, and New Orleans, respectively, judgments of condemnation were entered and the product was ordered released under bond to be denatured, under the supervision of the Food and Drug Administration, so that it could not be used for human consumption.

7743. Adulteration of soy flour and soy grits. U. S. v. 52 Bags of Soy Flour and 14 Bags of Grits. Default decree of condemnation. Products ordered delivered to a public institution. (F. D. C. No. 14115. Sample Nos. 90373-F, 90376-F.)

LIBEL FILED: October 25, 1944, Eastern District of Arkansas.

ALLEGED SHIPMENT: On or about July 21, 1944, by the Joe Hodges Warehouse Co., from Tulsa, Okla.

PRODUCT: 52 100-pound bags of soy flour and 14 100-pound bags of soy grits, at Little Rock, Ark.

LABEL, IN PART: "Kellogg's Special X Soy Flour [or "Meatone Fine Grits"]."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of larvae and insect fragments.

DISPOSITION: November 24, 1944. No claimant having appeared, judgment of condemnation was entered and the products were ordered delivered to a public institution, for use as animal feed.

MISCELLANEOUS CEREAL PRODUCTS*

7744. Adulteration of brewers' corn flakes. U. S. v. 138 Bags of Brewers' Corn Flakes. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14167. Sample No. 87375-F.)

LIBEL FILED: October 31, 1944, District of Minnesota.

ALLEGED SHIPMENT: On or about September 20, 1944, from Milwaukee, Wis.

PRODUCT: 138 80-pound bags of brewers' corn flakes at St. Paul, Minn., in the possession of the Yoerg Brewing Co. This article was stored under insanitary conditions after shipment. The bags were rodent-gnawed, and rodent pellets were observed on them. Examination showed that the article contained fleas, insect fragments, rodent excreta, and rodent hairs.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 21, 1944. The Yoerg Brewing Co., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

*See also No. 7743.

7745. Adulteration of brewers' ground wheat. U. S. v. 66 Bags of Brewers' Ground Wheat. Default decree of condemnation and destruction. (F. D. C. No. 14414. Sample No. 63811-F.)

LIBEL FILED: On or about November 17, 1944, Southern District of Florida.

ALLEGED SHIPMENT: On or about June 30, 1944, by the George Segal Co., from Chicago, Ill.

PRODUCT: 66 100-pound bags of brewers' ground wheat at Tampa, Fla.

LABEL, IN PART: (Tag) "B. A. Eckhart Milling Co., Chicago, Ill."; (back of tag) "100 Lbs. Brewheat."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and cast skins.

DISPOSITION: December 14, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7746. Adulteration of whole buckwheat groats, buckeye rolled oats, buckwheat and wheat flour, pudding mix, and spaghetti. U. S. v. 14 Bags of Whole Buckwheat Groats, 3 Bags of Buckeye Rolled Oats, 5 Bundles and 10 Cases of Buckwheat and Wheat Flour, 4 Cases of Pudding Mix, and 5 Cases of Spaghetti. Default decree of condemnation and destruction. (F. D. C. No. 13383. Sample Nos. 78325-F to 78330-F, incl., 78332-F.)

LIBEL FILED: August 24, 1944, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: Between the approximate dates of September 18, 1941, and January 5, 1944, from Cohocton and Penn Yan, N. Y., Akron, Ohio, Cobleskill, N. Y., and Brooklyn, N. Y.

PRODUCTS: 14 100-pound bags of whole buckwheat groats; 3 100-pound bags of buckeye rolled oats; 5 bundles, each containing 10 5-pound sacks, and 10 cases, each containing 24 1-pound, 4-ounce packages, of buckwheat and wheat flour; 4 cases, each containing 24 12-ounce packages, of pudding mix; and 5 cases, each containing 24 8-ounce packages, of spaghetti, at Allentown, Pa., in the possession of Reeves, Parvin and Co. These products had been stored under insanitary conditions after shipment. The bags containing the buckwheat groats and the oats had been gnawed by rodents; rodent pellets and urine stains were observed on the bags; and the contents had become contaminated with urine. A portion of the buckwheat groats and the remainder of the products contained weevils and larvae.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: October 10, 1944. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

7747. Adulteration of soy flour mixes. U. S. v. 64 Bags, 242 Bags, and 133 Bags of Flour Mixes. Decree of condemnation. Products ordered released under bond. (F. D. C. No. 14642. Sample Nos. 63397-F to 63399-F, incl.)

LIBEL FILED: December 12, 1944, Northern District of Georgia.

ALLEGED SHIPMENT: On or about March 29 and April 29, 1944, by Stein-Hall, from Hawthorne, Ill.

PRODUCT: 439 100-pound bags of soy flour mixes at Atlanta, Ga.

LABEL, IN PART: (Bags) "Hallmark Caradex [or "Lacdex"] SH Manufactured by Stein-Hall Chicago-New York."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of weevils, larvae, and cast skins.

DISPOSITION: February 2, 1945. The Nelson Brokerage Co., Atlanta, Ga., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond, conditioned that they be denatured for use as animal feed, under the supervision of the Food and Drug Administration.

7748. Adulteration of whole wheat flour mix. U. S. v. 25 Bags of Whole Wheat Flour Mix. Default decree of condemnation. Product ordered sold. (F. D. C. No. 13600. Sample No. 79926-F.)

LIBEL FILED: August 31, 1944, District of Maryland.

ALLEGED SHIPMENT: On or about July 24 and 25, 1944, by the Frantz Co., from Pittsburgh, Pa.

PRODUCT: 25 62-pound bags of whole wheat flour mix at Baltimore, Md.

LABEL, IN PART: (Bags) "Frantz's Whole Wheat Special."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and insect fragments.

DISPOSITION: December 5, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold for use as animal feed.

7749. Adulteration of popcorn. U. S. v. 109 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14800. Sample No. 92368-F.)

LIBEL FILED: December 18, 1944, Western District of New York.

ALLEGED SHIPMENT: On or about June 21, 1944, from Carnarvon, Iowa.

PRODUCT: 109 100-pound bags of popcorn at Rochester, N. Y., in the possession of Love's Confections, Inc. This product had been stored under insanitary conditions after shipment. The bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the product contained rodent hairs and rodent excreta.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 22, 1945. Love's Confections, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be washed and cleaned in order to eliminate all filth, under the supervision of the Food and Drug Administration.

7750. Adulteration of popcorn. U. S. v. 400 Bags and 117 Bags of Popcorn. Decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 14512, 14704. Sample Nos. 61398-F, 62348-F.)

LIBELS FILED: November 25 and December 5, 1944, Eastern District of Louisiana and Southern District of Texas.

ALLEGED SHIPMENT: On or about October 19 and 30, 1944, by Manley, Inc., Lakeview, Iowa, and Oklahoma City, Okla.

PRODUCT: 400 100-pound bags of popcorn at New Orleans, La., and 117 100-pound bags at Houston, Tex. Examination disclosed that both lots of the product contained rodent excreta and, in addition, the Houston lot contained weevils.

LABEL, IN PART: "Manley's Best Popcorn."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance.

DISPOSITION: February 6 and 9, 1945. Manley, Inc., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be reprocessed and washed under the supervision of the Food and Drug Administration.

7751. Adulteration of rice. U. S. v. 5 Bags of Rice. Default decree of condemnation. Product ordered delivered to the National Zoological Park, for use as animal feed. (F. D. C. No. 14412. Sample No. 92840-F.)

LIBEL FILED: November 10, 1944, District of Columbia.

ALLEGED SHIPMENT: On or about February 29, 1944, from New York, N. Y.

PRODUCT: 5 100-pound bags of rice at Washington, D. C., in the possession of the Terminal Refrigerating and Warehousing Corporation, Fourth Street plant. This product had been stored, after shipment, under insanitary conditions. The bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the article contained rodent excreta and weevils.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been

held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 5, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to the National Zoological Park, for use as animal feed.

7752. Adulteration of rice. U. S. v. 2,244 Bags of Rice. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15158. Sample No. 29002-H.)

LIBEL FILED: January 24, 1945, Northern District of California.

ALLEGED SHIPMENT: On or about January 1, 1945, by the Dulien Steel Products Co., from Seattle, Wash.

PRODUCT: 2,244 100-pound bags of rice at San Francisco, Calif.

LABEL, IN PART: "Rice Capital Rice Mills," or "Rice * * * Farmers Rice Milling Co. Inc."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, webbing, and insect-infested rice.

DISPOSITION: February 14, 1945. Sugarman Bros. and Green Bros. & Co., claimants, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into conformity with the law, under the supervision of the Food and Drug Administration.

7753. Adulteration of rice. U. S. v. 80 Sacks of Rice. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14109. Sample No. 71377-F.)

LIBEL FILED: On or about November 10, 1944, District of Oregon.

ALLEGED SHIPMENT: On or about October 21, 1943, by the West Sacramento Growers, from Sacramento, Calif.

PRODUCT: 80 100-pound sacks of rice at Eugene, Oreg.

LABEL, IN PART: (Sacks) "Extra Fancy California Pearl Rice."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, cast skins, and insect excreta.

DISPOSITION: February 5, 1945. R. E. Lafferty and Sons, Eugene, Oreg., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was cleaned in order to eliminate all filth, and the unfit portion was destroyed.

7754. Adulteration of rice. U. S. v. 55 Bags of Rice. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14061. Sample No. 63807-F.)

LIBEL FILED: October 26, 1944, Southern District of Florida.

ALLEGED SHIPMENT: On or about December 10, 1943, by the Silver Mill Rice Co., from Houston, Tex.

PRODUCT: 55 100-pound bags of rice at Tampa, Fla.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, weevils, insect fragments, and rodent hair fragments.

DISPOSITION: March 28, 1945. Alex Demmi, Tampa, Fla., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be disposed of in conformity with the law, under the supervision of the Food and Drug Administration. The portion that was not contaminated by rats was cleaned in order to eliminate all insect filth, and the remainder was converted into animal feed.

7755. Adulteration of rice grits. U. S. v. 500 Bags of Rice Grits. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14497. Sample No. 99035-F.)

LIBEL FILED: November 20, 1944, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about November 17, 1943, by the Mouton Rice Milling Co., from Harrisburg, Ark.

PRODUCT: 500 200-pound bags of rice grits at St. Louis, Mo.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

DISPOSITION: January 26, 1945. Anheuser-Busch, Inc., St. Louis, Mo., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was converted into animal feed.

7756. Adulteration of rice grits. U. S. v. 500 Bags of Rice Grits. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14501. Sample No. 80800-F.)

LIBEL FILED: November 21, 1944, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about November 17, 1943, by the Arkansas State Rice Milling Co., from Carlisle, Ark.

PRODUCT: 500 200-pound bags of rice grits at St. Louis, Mo.

LABEL, IN PART: "Brewers Rice."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

DISPOSITION: January 26, 1945. Anheuser-Busch, Inc., St. Louis, Mo., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was converted into animal feed.

7757. Adulteration of soybean flakes. U. S. v. 550 Bags of Soybean Flakes. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 14709. Sample No. 62383-F.)

LIBEL FILED: December 5, 1944, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about August 23, 1944, by the Archer-Daniels-Midland Co., from Chicago, Ill.

PRODUCT: 550 100-pound bags of soybean flakes at New Orleans, La.

LABEL, IN PART: "A D M Soybean Brew Flakes No. 1."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect fragments, rodent excreta fragments, and rodent hair fragments.

DISPOSITION: February 26, 1945. The Archer-Daniels-Midland Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be used in the manufacture of animal feed, under the supervision of the Food and Drug Administration.

7758. Adulteration of wheat flakes. U. S. v. 549 Bags of Wheat Flakes. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15078. Sample No. 3202-H.)

LIBEL FILED: January 20, 1945, District of Maryland.

ALLEGED SHIPMENT: On or about December 19, 1944, by the Miner-Hillard Milling Co., from Miner's Mills, Pa.

PRODUCT: 549 bags, each containing 100 pounds, of wheat flakes at Baltimore, Md.

LABEL, IN PART: (Bags, portion) "Miner's Wheat Flakes."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 15, 1945. The Miner-Hillard Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be denatured for use as animal feed, under the supervision of the Food and Drug Administration.

CHOCOLATE, SUGARS, AND RELATED PRODUCTS *

CANDY

7759. Adulteration of candy. U. S. v. The Shupe-Williams Candy Co. Plea of guilty. Fine, \$25. (F. D. C. No. 14245. Sample Nos. 70110-F, 70111-F.)

INFORMATION FILED: December 29, 1944, District of Utah, against the Shupe-Williams Candy Co., a corporation, Ogden, Utah.

ALLEGED SHIPMENT: On or about June 20, 1944, from the State of Utah into the State of Wyoming.

LABEL, IN PART: (Cases) "Parker Bros. No. 4 Rock Springs Wyoming * * * Cara Blocks [or "Assorted Balls"]."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts, hairs similar to rodent hairs, one insect, one feather barbule, and non-descript material; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 7, 1945. A plea of guilty having been entered on behalf of the defendant, a fine of \$25 was imposed.

7760. Adulteration of candy. U. S. v. Jan Edwards (Jan Edwards Candy Co.). Plea of nolo contendere. Fine, \$25 on count 1; sentence suspended on counts 2 and 3, and defendant placed on probation for 1 year. (F. D. C. No. 14247. Sample Nos. 71603-F, 71613-F, 71620-F.)

INFORMATION FILED: January 11, 1945, Southern District of California, against Jan Edwards, trading as the Jan Edwards Candy Co., Los Angeles, Calif.

ALLEGED SHIPMENT: Between the approximate dates of March 4 and 31, 1944, from the State of California into the State of Washington.

LABEL, IN PART: "Deliciously Annutated Mein Knuts."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, cat hairs, unidentified hairs, insects, insect fragments, larvae or larva heads, and larva fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 10, 1945. A plea of nolo contendere having been entered, a fine of \$25 on count 1 was imposed. Sentence was suspended on counts 2 and 3, and the defendant was placed on probation for 1 year.

7761. Adulteration of candy. U. S. v. 10 Cases of Candy. Default decree of condemnation and destruction. (F. D. C. No. 13972. Sample No. 83502-F.)

LIBEL FILED: October 28, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: On or about October 5, 1944, by the Feek Cigar Co., from Tacoma, Wash.

PRODUCT: 10 cases of candy bars at Chicago, Ill.

LABEL, IN PART: "LeClaire's Buddy Fudge," or "Fancy Confections."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of larvae, webbing, insect excreta, and mold.

DISPOSITION: December 11, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7762. Adulteration of candy. U. S. v. 73 Cases and 3 Cases of Candy. Default decree of condemnation and destruction. (F. D. C. No. 15179. Sample No. 13805-H.)

LIBEL FILED: February 1, 1945, Northern District of Ohio.

ALLEGED SHIPMENT: On or about August 12, 1944, by the National Carloading Corporation, Boise, Idaho. This was a return shipment, the product having been shipped originally from Cleveland, Ohio, to Boise, Idaho.

PRODUCT: 73 cases, each containing 30 pounds, and 3 cases, each containing 35 pounds, of candy at Cleveland, Ohio.

*See also No. 7705.

LABEL, IN PART: "Sweet Chocolate Peanut Clusters."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect fragments.

DISPOSITION: February 28, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7763. Adulteration of chocolates. U. S. v. 120 Boxes of Chocolates. Default decree of condemnation and destruction. (F. D. C. No. 14853. Sample No. 88801-F.)

LIBEL FILED: December 26, 1944, District of New Hampshire.

ALLEGED SHIPMENT: On or about November 29, 1944, by the Liberty Chocolate Co., from Boston, Mass.

PRODUCT: 120 1-pound boxes of assorted chocolates, at Nashua, N. H.

LABEL, IN PART: "Sue Perkins Assorted Chocolates."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 25, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7764. Adulteration and misbranding of candy. U. S. v. 76 Chests of Candy. Default decree of condemnation and destruction. (F. D. C. No. 15094. Sample No. 9485-H.)

LIBEL FILED: January 25, 1945, Western District of New York.

ALLEGED SHIPMENT: On or about May 5, 1944, by the Paul X. Bergin Co., from Providence, R. I.

PRODUCT: 76 chests, each containing 1½ pounds, of candy, at Buffalo, N. Y. The article was packed in a chest made of wood with a hinged lid. Inside the chest was a cardboard 1-pound candy box containing two layers of candy separated by a sheet of cardboard. The top layer contained 16 pieces of candy while the bottom layer, which contained a "W"-shaped supporting cardboard strip, contained only 8 pieces of candy.

LABEL, IN PART: (Top of chest) "Mary Taylor Chocolates"; (bottom of chest) "Mary Taylor Novelty Chest of Assorted Sweets * * * Packed by Mary Taylor Chocolate Company, Providence, Rhode Island."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect excreta, and webbing.

Misbranding, Section 403 (a), the label statement, "Chocolates," was false and misleading since the article contained nougats as well as chocolates; Section 403 (d), the container was so filled as to be misleading since the bottom layer of the cardboard box could have accommodated approximately 6 more pieces of candy; and, Section 403 (f), the statement of the quantity of contents, required by law to appear on the label, was not properly placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use, since it appeared on the bottom of the chest and also inside the chest on the top and side of the cardboard box.

DISPOSITION: February 19, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. The wooden chests were salvaged.

7765. Adulteration and misbranding of cereal confection. U. S. v. 361 Cases of Caramel Coated Wheat. Default decree of condemnation. Product ordered delivered to the United Service Organizations, or destroyed. (F. D. C. No. 13707. Sample No. 70700-F.)

LIBEL FILED: September 21, 1944, Western District of Washington.

ALLEGED SHIPMENT: On or about June 8, 1944, by Confections, Inc., from Chicago, Ill.

PRODUCT: 361 cases, each containing 24 4-ounce cellophane bags, of caramel-coated wheat at Seattle, Wash.

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), honey and butter, valuable constituents, had been in whole or in part omitted from the product; Section 402 (b) (2), an article containing mineral oil, a nonnutritive substance, and containing little, if any, honey or butter, and having no flavor of honey, had been substituted in whole or in part for "Sugared Buttered Ready to Eat Caramel Coated Wheat Honey Flavored," which the product was represented to be; and, Section 402 (b) (4), mineral oil, a substance having no food value, had been added to and mixed and packed with the product so as to reduce its quality or strength.

Misbranding, Section 403 (a), the following statements and designs in the labeling were false and misleading as applied to an article which contained little, if any, honey or butter: (Cellophane bag) "Honey Child Buttered Honey Flavored Creamery Butter Enriched with Pure Creamery Butter Honey Flavored"; (cases) "Honey Child Honey Flavored"; and (display streamer glued to the case) "Honey Child 'Butter Rich' [picture of a churn and a kettle containing cubes of butter]."

DISPOSITION: November 17, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to the United Service Organizations, to be utilized by that organization or destroyed.

7766. Misbranding of Spanish nut toffee. U. S. v. 25 Cases of Spanish Nut Toffee. Default decree of condemnation. Product ordered delivered to a public organization. (F. D. C. No. 15632. Sample No. 27334-H.)

LIBEL FILED: March 15, 1945, Eastern District of Washington.

ALLEGED SHIPMENT: On or about February 19, 1945, by the California Fruit Chimes Co., from San Gabriel, Calif.

PRODUCT: 25 cases, each containing 48 5-ounce packages, of Spanish nut toffee, at Yakima, Wash.

VIOLATION CHARGED: Misbranding, Section 403 (d), the container of the article was so filled as to be misleading since there was an excessive amount of unfilled space in the package.

DISPOSITION: May 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public organization.

SIRUPS AND SUGARS*

7767. Adulteration and misbranding of sirup. U. S. v. 16 Cases of Sirup. Default decree of condemnation. Product ordered delivered to a charitable organization. (F. D. C. No. 13097. Sample No. 76231-F.)

LIBEL FILED: August 2, 1944, District of New Jersey.

ALLEGED SHIPMENT: On or about June 5, 1944, by Michels, from New York, N. Y.

PRODUCT: 16 cases, each containing 24 6-ounce bottles, of sirup at West Englewood, N. J.

LABEL, IN PART: (Bottles) "Vermont Maple Syrup * * * Tiffany Extract Co. * * * Paterson, N. J."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, maple sugar or maple sirup, had been in whole or in part omitted from the product; and, Section 402 (b) (2), sugar sirup containing more than 35 percent water, and containing little or no true maple sugar or maple sirup, had been substituted for maple sirup, which the product purported and was represented to be.

Misbranding, Section 403 (a), the label statement, "100% Grade A Pure Vermont Maple Syrup Sap," and the design of a maple leaf and maple trees, were false and misleading; Section 403 (c), the product was an imitation of another food, maple sirup, and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; and, Section 403 (i) (2), it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: October 23, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable organization, after destruction of the labels as directed by the Food and Drug Administration.

*See also Nos. 7702-7706.

7768. Adulteration and misbranding of sirup. U. S. v. 9 Cases of Sirup. Default decree of condemnation and destruction. (F. D. C. No. 13081. Sample No. 35283-F.)

LIBEL FILED: August 1, 1944, Southern District of Florida.

ALLEGED SHIPMENT: On or about April 19, 1944, by Bruno Scheidt, from New York, N. Y.

PRODUCT: 9 cases, each containing 24 6-ounce bottles, of sirup at St. Petersburg, Fla.

LABEL, IN PART: (Bottles) "Pure Vermont Maple Syrup Sap * * * Tiffany Extract Co. Paterson, N. J."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, maple sugar or maple sap, had been in whole or in part omitted from the product; and, Section 402 (b) (2), sugar sirup containing more than 35 percent water, and containing little or no true maple sugar or maple sirup, had been substituted for maple sirup, which the product purported and was represented to be.

Misbranding, Section 403 (a), the label statement, "100% Grade A Pure Vermont Maple Syrup Sap," and the design of a maple leaf and maple trees, were false and misleading as applied to a sugar sirup containing more than 35 percent water and little or no true maple sugar or maple sirup; and, Section 403 (i) (2), the product was fabricated from two or more ingredients and its label failed to bear the common or usual name of each ingredient.

DISPOSITION: December 4, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7769. Misbranding of sirup. U. S. v. 120 Cartons of Sirup. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14667. Sample No. 88381-F.)

LIBEL FILED: December 21, 1944, District of New Hampshire.

ALLEGED SHIPMENT: On or about October 30, 1944, by Old Chateau Products, Carlisle, Mass.

PRODUCT: 120 cartons, each containing 12 1-quart jars, of sirup at Manchester, N. H. Analysis showed that the article was short volume.

LABEL, IN PART: (Jars) "Old Chateau 1 Quart."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: February 6, 1945. Mildred E. Spooner, trading as Old Chateau Products, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

7770. Adulteration of cane sugar. U. S. v. 59 Bags of Cane Sugar. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 14470. Sample No. 89877-F.)

LIBEL FILED: November 14, 1944, Northern District of Mississippi.

ALLEGED SHIPMENT: On or about October 3, 1944, from Reserve, La.

PRODUCT: 59 100-pound bags of cane sugar at Clarksdale, Miss., in the possession of the Planters Wholesale Grocery. The article was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the article was contaminated with rodent urine.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 9, 1945. The Planters Wholesale Grocery having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be refined under the supervision of the Food and Drug Administration.

7771. Adulteration of powdered sugar. U. S. v. 25 Bags of Powdered Sugar. Default decree of condemnation. Product ordered sold. (F. D. C. No. 12885. Sample No. 80181-F.)

LIBEL FILED: July 6, 1944, Western District of Tennessee.

ALLEGED SHIPMENT: On or about April 26, 1944, from New Orleans, La.

PRODUCT: 25 100-pound bags of powdered sugar at Memphis, Tenn., in the possession of T. C. Collas & Co. This product had been stored under insanitary conditions after shipment. The bags contained rodent excreta and urine stains. Examination showed that the sugar contained rodent hairs.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 29, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, under the direction of the Federal Security Agency, to be denatured so that it could not be used for human consumption. It was sold and satisfactorily denatured.

7772. Misbranding of Sugarine. U. S. v. 3 Bottles of Sugarine. Default decree of condemnation and destruction. (F. D. C. No. 13844. Sample No. 73636-F.)

LIBEL FILED: October 5, 1944, District of Arizona.

ALLEGED SHIPMENT: On or about May 27, 1944, by the Midwest Chemical Co., Mount Vernon, Ill.

PRODUCT: 3 1-gallon bottles of Sugarine at Phoenix, Ariz.

LABEL, IN PART: (Bottles) "Faulkner's Sugarine A Concentrated Sweetener * * * made with Inverted Sugar, Pure Rock Candy Syrup, Cane Sugar and Saccharine."

VIOLATION CHARGED: Misbranding, Section 403 (a), the label statements, "Has No Food Value," and "We claim no food value for Sugarine," were false and misleading as applied to a product containing 50 percent of sugar, which has substantial food value; the label statement, "This product complies fully with the Federal Pure Food Laws," was false and misleading since the product did not comply with the Federal Food, Drug, and Cosmetic Act; the name "Sugarine" was misleading as applied to a product which contained two or more ingredients and was designated by a name which suggested the name of one, i. e., sugar, but not all of the ingredients; and the label statement, "Contains $\frac{1}{4}$ of 1% Benzoate of Soda," was false and misleading since the product contained 1.1 percent of benzoate of soda.

DISPOSITION: November 21, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

DAIRY PRODUCTS

BUTTER AND CHEESE

7773. Adulteration of butter. U. S. v. 32 Cases of Butter (and 4 other seizure actions against butter). Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 13130, 13142, 15024 to 15026, incl. Sample Nos. 28886-F, 28889-F, 61925-F, 62006-F, 62037-F to 62039-F, incl.)

LIBEL FILED: Between July 10 and November 14, 1944, Eastern District of Louisiana and Southern District of Florida.

ALLEGED SHIPMENT: Between the approximate dates of June 8 and November 2, 1944, by the Fairmont Creamery Co., from Lawton and Guthrie, Okla.

PRODUCT: 49 cases, each containing 32 pounds, of butter at Jacksonville, Fla., and 272 cases, each containing 32 1-pound prints, of butter at New Orleans, La. Examination of samples showed that the product contained mold.

LABEL, IN PART: "Blue Ribbon Brand Butter," "Fairmont's Better Butter," "American Beauty Creamery Butter * * * L. Frank & Co., Inc., New Orleans, La.," or "Silver Brook Brand Butter Distributed by The Great Atlantic and Pacific Tea Company, New York, N. Y."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: Between July 21 and December 13, 1944. The Fairmont Creamery Co., Omaha, Nebr., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond to be converted into refined butter oil, under the supervision of the Food and Drug Administration.

7774. Adulteration of butter. U. S. v. 13,110 Pounds of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15109. Sample No. 92952-F.)

LIBEL FILED: On or about December 22, 1944, District of Maryland.

ALLEGED SHIPMENT: On or about December 11, 1944, by North American Cold Storage, Chicago, Ill.

PRODUCT: 208 60-pound boxes and 10 63-pound tubs of butter at Baltimore, Md. Analysis of samples showed that the product contained mold.

LABEL, IN PART: (Portions, wrapper) "White Poppy Brand Creamery Butter * * * Distributed by P. Lerner Co. San Francisco, Calif.," "Sugar Creek Butter Distributed by Sugar Creek Creamery Company Danville, Illinois," "Hillside And Valley Farms Brand Butter Make By Farmers Co-Op. Creamery Company Marion, Michigan," or "Pride O'Farm Brand Creamery Butter Distributed By Swift & Company, General Office, Chicago, Ill."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy or decomposed animal substance.

DISPOSITION: December 26, 1944. Isaac Adleberg, trading as the Hanover Food Products Co., Baltimore, Md., claimant, having admitted the allegations in the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. Approximately 6,100 pounds of the butter were processed as fit for human food, and the remainder was sold for grease.

Nos. 7775 to 7780 report actions involving butter that was below the legal standard for milk fat content.

7775. Adulteration of butter. U. S. v. 28 Boxes (approximately 1,512 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14346. Sample No. 82981-F.)

LIBEL FILED: October 6, 1944, Southern District of New York.

ALLEGED SHIPMENT: On or about September 25, 1944, by the Oelwein Farmers Cooperative Creamery Co., Oelwein, Iowa.

PRODUCT: 28 boxes, each containing approximately 54 pounds, of butter at New York, N. Y.

LABEL, IN PART: "Unsalted Butter Distributed by 23 L Daitch & Co., Inc. New York, N. Y."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: December 15, 1944. L. Daitch & Co. Inc., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked and brought into compliance with the law, under the supervision of the Food and Drug Administration.

7776. Adulteration of butter. U. S. v. 10 Cartons (approximately 640 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond to be reworked. (F. D. C. No. 15107. Sample No. 93781-F.)

LIBEL FILED: December 28, 1944, Southern District of New York.

ALLEGED SHIPMENT: On or about December 12, 1944, by the Sorensen Creameries, Big Stone City, S. Dak.

PRODUCT: 10 cartons, each containing approximately 64 pounds, of butter at New York, N. Y.

LABEL, IN PART: "Charles Wheeler Co. New York, N. Y. Distributors."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: January 24, 1945. The Charles Wheeler Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

7777. Adulteration of butter. U. S. v. 21 Cartons (approximately 1,344 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond to be reworked. (F. D. C. No. 15108. Sample No. 93639-F.)

LIBEL FILED: December 28, 1944, Southern District of New York.

ALLEGED SHIPMENT: On or about December 13, 1944, by the Mayville Creamery, Mayville, N. Dak.

PRODUCT: 21 cartons, each containing approximately 64 pounds, of butter at New York, N. Y.

LABEL, IN PART: "George Wittner & Co., Inc., New York * * * Butter."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: January 15, 1945. George Wittner & Co., Inc., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

7778. Adulteration of butter. U. S. v. 70 64-Pound Cubes of Butter. Decree of condemnation. Product ordered released under bond to be reworked. (F. D. C. No. 15102. Sample Nos. 97921-F, 11101-H.)

LIBEL FILED: January 9, 1945, District of Massachusetts.

ALLEGED SHIPMENT: On or about December 19, 1944, by the Farmers Coop. Creamery Co., from Volga, S. Dak.

PRODUCT: 70 cubes, each containing 64 pounds, of butter at Somerville, Mass.

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: January 24, 1945. The Pipestone Produce Co., Pipestone, Minn., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

7779. Adulteration of butter. U. S. v. 27 Cartons (approximately 1,728 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond to be reworked. (F. D. C. No. 15101. Sample Nos. 97919-F, 5642-H.)

LIBEL FILED: January 10, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about December 13, 1944, by the Delft Cooperative Creamery, Delft, Minn.

PRODUCT: 27 cartons, each containing approximately 64 pounds, of butter at New York, N. Y.

LABEL, IN PART: (Portion) "Butter Distributed by Hunter Walton Co. New York, N. Y."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: January 23, 1945. The Delft Cooperative Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

7780. Adulteration of butter. U. S. v. 16 Cartons (1,024 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15039. Sample No. 87799-F.)

LIBEL FILED: December 13, 1944, Southern District of New York.

ALLEGED SHIPMENT: On or about November 21, 1944, by the Goodrich Creamery Co., from Goodrich, N. Dak.

PRODUCT: 16 64-pound cartons of butter at New York, N. Y.

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: January 11, 1945. The J. J. Herold Co., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

7781. Adulteration of Greek cheese. U. S. v. 89 Boxes of Greek Cheese. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 13978. Sample Nos. 79108-F, 79113-F.)

LIBEL FILED: October 28, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: On or about August 21, 1944, by John Bookus, from Appleton, Wis.

PRODUCT: 89 44-pound boxes of Greek cheese at Chicago, Ill.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of maggots, mites, and mold.

DISPOSITION: December 11, 1944. The Deligiannis Bros., Chicago, Ill., claimant, having admitted the facts in the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

7782. Adulteration and misbranding of Cheddar cheese. U. S. v. 22 Boxes of Cheddar Cheese. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 13185. Sample Nos. 62920-F, 89944-F.)

LIBEL FILED: On or about August 12, 1944, Western District of Missouri.

ALLEGED SHIPMENT: On or about April 18, 1944, by the Pet Milk Co., from Huntsville, Ark.

PRODUCT: 22 boxes of Cheddar cheese at Springfield, Mo.

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), an article deficient in milk fat had been substituted in whole or in part for Cheddar cheese, which it purported and was represented to be.

Misbranding, Section 403 (e) (1), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; and, Section 403 (g) (1), it failed to conform to the definition and standard of identity for Cheddar cheese since it contained in its solids less than 50 percent of milk fat.

DISPOSITION: September 30, 1944. The Pet Milk Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Food and Drug Administration.

EGGS

7783. Adulteration of dried whole eggs. U. S. v. 284 Barrels of Dried Eggs. Tried to the court. Decree of condemnation ordering product delivered to a public institution, for use as animal feed. (F. D. C. No. 9060. Sample Nos. 5843-F, 5844-F.)

LIBEL FILED: December 23, 1942, Western District of Tennessee.

ALLEGED SHIPMENT: On or about October 29 and November 4, 1942, by the F. S. C. C., c/o Joe Lowe Corporation, San Antonio, Tex.

PRODUCT: 284 175-pound barrels of dried whole eggs at Memphis, Tenn.

LABEL, IN PART: "Spray Dried Whole Egg Joe Lowe Corp. New York N Y Mfg. by Joe Lowe Corp San Antonio Texas."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: The Joe Lowe Corporation filed an answer on February 18, 1942, denying that the product was adulterated, and the cause having been heard before the court without a jury, the following findings of fact and conclusions of law in favor of the Government were handed down on July 29, 1943:

Boyd, District Judge:

FINDINGS OF FACT

I

"The United States Government, through libel proceedings, seized two hundred and eighty-four barrels of dried eggs at Memphis, Tennessee. The question, purely one of fact, is whether or not they are adulterated within the meaning of the Federal Food, Drug and Cosmetic Act (Title 21 United States Code Annotated, Section 342 (a) (3)), and more particularly whether they consist wholly or in part of a decomposed substance.

II

"These eggs, the property of claimant Joe Lowe Corporation, were processed at claimant's plant in San Antonio, Texas.

III

"Samples were taken at San Antonio, Texas, and at Memphis, Tennessee, for analysis in Government laboratories and by experts in the employ of the claimant herein.

IV

"The United States Government, through its Food and Drug Administration, made numerous tests and experiments to arrive at a basis for standards in the matter of judging dried eggs and detecting decomposition therein. Thus, it was determined that in good, edible, liquid eggs, and in dried eggs made therefrom, the microscopic bacterial count is relatively low; while in eggs which are allowed to undergo souring before drying, such counts greatly increase. Also, it was determined that the amounts of lactic and acetic acids in dried whole eggs made from good, edible liquid eggs are relatively small, with no formic acid; while in eggs which are allowed to undergo souring before drying the amounts of lactic and acetic acids are significantly greater, and substantial amounts of formic acid are found in the dried egg powder made therefrom.

V

"From the tests and experiments set out above, it was determined that a sour egg is one which has undergone bacterial deterioration.

VI

"From the tests and experiments made by the Food and Drug Administration aforesaid, it was found that lactic acid in good eggs never exceeds fifty milligrams per one hundred grams of dried eggs. It was also found that acetic acid in good eggs never exceeds sixty-five milligrams per one hundred grams of dried eggs. Further, that formic acid is not found at all in good eggs.

VII

"From the tests and experiments made by the Food and Drug Administration, it was determined that dried eggs containing more than one hundred million bacteria per gram are sour and contain decomposed substance. It was also established that as a general rule as the bacterial microscopic count increases, there is a corresponding increase in the amount of acid present.

VIII

"As a result of the microscopic bacteriological count on samples of the dried eggs in this case, it is found that the eggs contain from one hundred and twenty-two million bacteria per gram to a maximum of four billion, six hundred and ten million bacteria per gram.

IX

"As a result of the chemical analysis of the samples of the dried eggs in this case, it is found that they contain in formic acid from twenty-seven milligrams per one hundred grams to a maximum of one hundred and seven milligrams per one hundred grams; that they contain from sixty-one to one hundred and forty-six milligrams per one hundred grams of acetic acid; and that they contain from eighty-six to six hundred and two milligrams per one hundred grams of lactic acid.

X

"The tests relating to the sense of taste and smell, referred to as the organoleptic test, to which the eggs in this case were subjected, establish that the eggs under investigation herein are repulsive and a sour, decomposed product.

XI

"The practices and conditions under which the eggs involved herein were processed were not conducive to the production of a good, wholesome and edible product, but were such that sour or decomposed eggs could be reasonably expected to result. In this connection, eggs, including those under inves-

tigation here, on being broken were accumulated and permitted to remain in the breaking room at high temperatures for unreasonable lengths of time before refrigeration. The proof shows also that frozen eggs, from which the eggs in this case were dried, were taken from a warehouse lot which contained a substantial quantity of sour, decomposed eggs.

XII

"From all of the tests made in this case, and from all the facts and circumstances, the Court finds the eggs herein to be sour and, therefore, to contain a decomposed substance, which renders them unfit for food in any manner.

CONCLUSIONS OF LAW

I

"The eggs herein are adulterated within the meaning of the Federal Food, Drug and Cosmetic Act (Title 21 United States Code Annotated, Section 342 (a) (3)), in that same consist wholly or in part of a decomposed substance rendering them unfit for food in any manner.

II

"The United States of America is entitled to a decree of condemnation as prayed, with costs."

On August 7, 1943, a decree was entered condemning the product and ordering it destroyed. A notice of appeal to the Circuit Court of Appeals for the Sixth Circuit was filed by the claimant on September 7, 1943. On May 27, 1944, the claimant, alleging that it had not perfected its appeal and that the matter thus still remained within the jurisdiction of the district court, filed a petition in the district court for the segregation and release under bond of any fit portion of the product to the claimant. The claimant also submitted a motion to the circuit court of appeals to dismiss the appeal, and on June 13, 1944, the Government having consented to the dismissal, the circuit court ordered the appeal dismissed and the cause remanded to the district court. On June 19, 1944, the claimant's petition for release of any fit portion of the product was denied, and on November 2, 1944, an amendment to the original decree of condemnation was filed, ordering that the product be delivered to a public institution, for use as animal feed.

7784. Adulteration of dried whole eggs. U. S. v. The Blue Sea Fish Co., Inc., Walter Ebbighausen, and Arthur Barretta. Pleas of guilty. Corporation fined \$250, and individual defendants each fined \$500. (F. D. C. No. 12536. Sample No. 66196-F.)

INFORMATION FILED: August 7, 1944, District of New Jersey, against the Blue Sea Fish Co., Inc., a corporation, Teaneck, N. J., and Walter Ebbighausen and Arthur Barretta, president and secretary-treasurer, respectively.

ALLEGED SHIPMENT: Between the approximate dates of June 21 and July 6, 1943, from the State of New Jersey into the State of New York.

LABEL, IN PART: "Egg Grade A * * * Advance Foods Corp. Centerville Ind.," or "Spray Whole Egg * * * Marshall Kirby & Co Inc Terre Haute Ind."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, vegetable fibers, pieces of wood, cinders, and dirt.

DISPOSITION: December 15, 1944. Pleas of guilty having been entered on behalf of the corporation and by the individual defendants, fines of \$250 against the corporation and \$500 against each individual defendant were imposed.

7785. Adulteration of spray-dried whole eggs. U. S. v. 18 Barrels of Spray-Dried Whole Eggs. Default decree of condemnation and destruction. (F. D. C. No. 14772. Sample Nos. 92366-F, 92367-F.)

LIBEL FILED: December 15, 1944, Western District of New York; amended libel filed December 23, 1944.

ALLEGED SHIPMENT: On or about March 22 and 25, 1944, by Horace A. Gioia, from Jersey City, N. J.

PRODUCT: 18 200-pound barrels of spray-dried whole eggs at Rochester, N. Y.
VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: January 30, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7786. Adulteration of spray-dried whole eggs. U. S. v. 1 Barrel of Spray-Dried Whole Eggs. Default decree of condemnation. Product ordered delivered to a Federal institution, for use as animal feed. (F. D. C. No. 15113. Sample No. 5705-H.)

LIBEL FILED: January 27, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about December 13, 1944, by the Detroit Harbor Terminal, Inc., from Detroit, Mich.

PRODUCT: 1 barrel, containing about 175 pounds, of spray-dried whole eggs at New York, N. Y.

LABEL, IN PART: "Spray Dried Whole Eggs, Grade A * * * Swift & Co., Keokuk, Iowa."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

DISPOSITION: February 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution, for use as animal feed.

7787. Adulteration of frozen eggs. U. S. v. 7 Cans of Frozen Eggs. Default decree of condemnation and destruction. (F. D. C. No. 14075. Sample No. 44348-F.)

LIBEL FILED: October 23, 1944, Eastern District of New York.

ALLEGED SHIPMENT: On or about October 10, 1944, by the Independent Food Products Co., from Newark, N. J.

PRODUCT: 7 30-pound cans of frozen whole eggs at Brooklyn, N. Y.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: December 26, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7788. Adulteration of frozen eggs. U. S. v. 100 Cans and 149 Cans of Frozen Eggs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14370. Sample Nos. 82855-F, 82856-F.)

LIBEL FILED: November 3, 1944, Southern District of New York.

ALLEGED SHIPMENT: On or about October 13 and 20, 1944, by the Frigid Food Products, Inc., Detroit, Mich.

PRODUCT: 100 cans and 149 cans, each containing 30 pounds, of frozen eggs at New York, N. Y.

LABEL, IN PART: (Tags) "Frigidegs Frozen Strictly Fresh [on portion, "Super-Tex Containing Yolks-Whites"] Added Sugar Whole Eggs."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: December 4, 1944. The Frigid Food Products, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction of the unfit portion, under the supervision of the Food and Drug Administration.

7789. Adulteration of frozen eggs. U. S. v. 1,175 Cans of Frozen Eggs. Decree ordering the release of the product under bond. (F. D. C. No. 12920. Sample No. 49693-F.)

LIBEL FILED: July 11, 1944, Western District of New York.

ALLEGED SHIPMENT: On or about June 9, 1944, by the Highway Butter and Egg Co., Inc., from Indianapolis, Ind.

PRODUCT: 1,175 cans, each containing 30 pounds, of frozen eggs at Rochester, N. Y.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: October 23, 1944. The New York Central Railroad Co. having appeared as claimant, judgment was entered ordering that the product be released under bond for segregating the fit from the unfit portion and disposition of both under the supervision of the Food and Drug Administration.

7790. Adulteration of frozen whole eggs. U. S. v. 480 Cans of Frozen Whole Eggs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15205. Sample No. 22015-H.)

LIBEL FILED: February 3, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about December 28, 1944, by the Fairmont Creamery Co., from Omaha, Nebr.

PRODUCT: 480 cans of frozen whole eggs at St. Louis, Mo.

LABEL, IN PART: "Fancy Fairmont's Frozen Fresh Eggs."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: February 24, 1945. The Fairmont Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned on the separation of the unfit portion from the fit portion, under the supervision of the Food and Drug Administration.

FISH AND SHELLFISH

7791. Adulteration of frozen smoked cod fillets. U. S. v. 524 Boxes and 490 Boxes of Frozen Smoked Cod Fillets. Default decrees of condemnation and destruction. (F. D. C. Nos. 14890, 14891. Sample Nos. 82028-F, 82029-F.)

LIBELS FILED: January 3, 1945, Eastern District of New York.

ALLEGED SHIPMENT: On or about September 27, 1944, by the Burns Fisheries, from Halifax, Nova Scotia, Canada.

PRODUCT: 1,014 boxes, each containing 15 pounds, of frozen smoked cod fillets at Brooklyn, N. Y.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: March 5, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

7792. Adulteration of frozen flounder fillets. U. S. v. 2,327 Cartons of Frozen Flounder Fillets. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 13623. Sample No. 76179-F.)

LIBEL FILED: September 20, 1944, District of New Jersey; amended libel filed October 2, 1944, to include additional labeling.

ALLEGED SHIPMENT: On or about August 14, 1944, by National Frosted Foods, Inc., from New Bedford, Mass.

PRODUCT: 2,327 10-pound cartons of frozen flounder fillets at Newark, N. J.

LABEL, IN PART: "Superior Frozen Yellow Tail Fillets Packed by Superior Fillets, Inc. New Bedford, Massachusetts," "Flounder Fillets * * * Packed For National Frosted Foods, Inc. New York," or "Economy Brand * * * Yellow Tail Fillets Packed by Economy Fillet Co. New Bedford, Massachusetts."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: February 5, 1945. The National Frosted Foods Sales Corporation, New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and denatured for use as fertilizer material, under the supervision of the Food and Drug Administration.

7793. Adulteration of frozen pollack fillets. U. S. v. 191 Boxes of Frozen Pollack Fillets. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15123. Sample Nos. 4103-H, 4301-H, 4302-H.)

LIBEL FILED: January 29, 1945, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about August 26, 1944, by Maritime-National Fish, Ltd., from Halifax, Nova Scotia, Canada.

PRODUCT: 191 15-pound boxes of frozen fish at Philadelphia, Pa.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: February 6, 1945. The Eastern Seafood Co., Philadelphia, Pa., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned upon the segregation and destruction of the unfit portion, under the supervision of the Food and Drug Administration.

7794. Adulteration of frozen ocean perch. U. S. v. 1,067 Boxes and 77 Boxes of Frozen Ocean Perch. Default decree of condemnation and destruction. (F. D. C. Nos. 14921, 14922. Sample Nos. 96449-F, 96451-F, 96456-F.)

LIBEL FILED: On or about January 8, 1945, Northern District of Illinois.

ALLEGED SHIPMENT: On or about December 27, 1944, by the Massachusetts Ice and Cold Storage Co., from Boston, Mass.

PRODUCT: 1,144 10-pound boxes of frozen ocean perch at Chicago, Ill.

LABEL, IN PART: "Frozen Ocean Perch Packed by Cape Ann Fisheries Inc. Gloucester, Mass."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: March 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7795. Adulteration of frozen rosefish fillets and kippered herring. U. S. v. 309 Cartons of Frozen Rosefish Fillets (and 2 other seizure actions against frozen rosefish fillets and kippered herring). Default decrees of condemnation and destruction. (F. D. C. Nos. 14972, 14973, 14977. Sample Nos. 92373-F to 92375-F, incl.)

LIBEL FILED: January 9, 1945, Western District of New York.

ALLEGED SHIPMENT: On or about July 17 and August 21, 1944, by J. Adams and Co., from Boston, Mass.

PRODUCT: 454 10-pound boxes and 309 10-pound cartons of frozen rosefish fillets, and 178 10-pound boxes of kippered herring at Rochester, N. Y.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of decomposed substances by reason of the presence of decomposed rosefish fillets and moldy herring.

DISPOSITION: March 12, 1945. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

7796. Misbranding of canned sardine fillets. U. S. v. 198 Cases of Canned Sardine Fillets. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 14986. Sample No. 84542-F.)

LIBEL FILED: On or about January 26, 1945, Northern District of Illinois.

ALLEGED SHIPMENT: On or about December 22, 1944, by the Sea Pride Packing Corporation, Ltd., from Oakland, Calif.

PRODUCT: 198 cases, each containing 48 cans, of sardine fillets at Chicago, Ill. Examination showed that the article was short-weight.

LABEL, IN PART: "Calistar Sardine Fillets Boneless Salt Added Contents 8 Oz. Avoir."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the label statement, "Contents 8 Oz. Avoir.," was inaccurate.

DISPOSITION: March 12, 1945. The Sea Pride Packing Corporation, Ltd., claimant, having admitted the facts in the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

7797. Adulteration of canned tuna fish. U. S. v. 24 Cases of Canned Tuna Fish. Default decree of condemnation and destruction. (F. D. C. No. 14963. Sample No. 74341-F.)

LIBEL FILED: January 6, 1945, Southern District of Texas.

ALLEGED SHIPMENT: On or about October 11, 1944, by Francis H. Leggett, from Los Angeles, Calif.

PRODUCT: 24 cases, each containing 48 cans, of tuna fish, at Houston, Tex.

LABEL, IN PART: "Premier White Meat Tuna Fish."

VIOLATION CHARGED: Adulteration, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7798. Adulteration of frozen whiting. U. S. v. 786 Boxes of Butterfly Whiting. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14938. Sample Nos. 96453-F, 96459-F.)

LIBEL FILED: On or about January 8, 1945, Northern District of Illinois.

ALLEGED SHIPMENT: On August 8, 1944, by the Booth Fisheries Corporation, from Gloucester, Mass.

PRODUCT: 786 10-pound boxes of frozen whiting at Chicago, Ill.

LABEL, IN PART: "Fresh Butterfly Whiting Frozen Packed by North Shore Fillet Company Gloucester, Mass."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: January 12, 1945. The Booth Fisheries Corporation, claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond to be salvaged and brought into compliance with the law, under the supervision of the Food and Drug Administration.

7799. Adulteration of frozen clams. U. S. v. 619 Cartons and 19 Boxes of Frozen Clams. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14988. Sample No. 13788-F.)

LIBEL FILED: January 13, 1945, Southern District of California.

ALLEGED SHIPMENT: On or about September 9, 1944, by the Washington Fish and Oyster Co., from Seattle, Wash.

PRODUCT: 619 cartons and 19 boxes, totaling 30,000 pounds, of frozen clams at San Diego, Calif.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: February 17, 1945. J. J. Camillo and the Washington Fish and Oyster Co., claimants, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Food and Drug Administration.

7800. Adulteration of crab meat. U. S. v. W. D. Gale and Hyatt B. Gale (Gale Packing Co.). Pleas of nolo contendere. Each individual fined \$100. (F. D. C. No. 14243. Sample Nos. 28876-F, 35090-F.)

INFORMATION FILED: February 26, 1945, Southern District of Florida, against W. D. Gale and Hyatt B. Gale, trading as the Gale Packing Co., a partnership, Palatka, Fla.

ALLEGED SHIPMENT: On or about June 6 and 7, 1944, from the State of Florida into the District of Columbia.

LABEL, IN PART: "Lake George Brand * * * Crab Meat."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance as evidenced by the presence of fecal *Escherichia coli*; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 26, 1945. The defendants' motion to quash, on the grounds that the information did not charge the crab meat to have been rendered injurious to health or unfit for food, or that *Escherichia coli* was not per se adulteration, having been denied, the defendants entered pleas of nolo contendere, and each partner was fined \$50 on each of 2 counts.

7801. Adulteration of oysters. U. S. v. 500 Pints and 2,200 Pints of Oysters. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15237. Sample Nos. 10018-H, 10215-H.)

LIBEL FILED: February 9, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about February 4, 1945, by John H. Leonard, from Baltimore, Md.

PRODUCT: 2,700 pints of oysters at Pittsburgh, Pa.

VIOLATION CHARGED: Adulteration, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: February 9, 1945. John H. Leonard, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into conformity with the law, under the supervision of the Food and Drug Administration.

7802. Adulteration of oysters. U. S. v. 64 Pints and 264 Pints of Oysters (and 2 other seizure actions against oysters). Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 14812, 14838, 14843. Sample Nos. 85286-F, 85289-F, 85290-F.)

LIBELS FILED: December 21, 29, and 30, 1944, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 13, 14, and 20, 1944, by Charles W. Howeth and Brother, from Crisfield, Md.

PRODUCT: 1,095 pints of oysters at York, Pa.

LABEL, IN PART: (Portion) "H & B Brand Famous Salt Water Oysters."

VIOLATION CHARGED: Adulteration, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: January 19, 1945. Charles W. Howeth, claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The excess liquid was removed and the cans were filled with oysters. Oysters of unsatisfactory quality were destroyed.

7803. Adulteration of oysters. U. S. v. 225 Cans of Oysters (and 2 other seizure actions against oysters). Default decrees of condemnation and destruction. (F. D. C. Nos. 14811, 14815, 14837. Sample Nos. 85285-F, 85287-F, 85288-F.)

LIBELS FILED: Between December 21 and 29, 1944, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 14 and 18, 1944, by Hickman and Sterling, from Crisfield, Md.

PRODUCT: 564 1-pint cans of oysters at York, Pa.

VIOLATION CHARGED: Adulteration, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: February 22, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

7804. Adulteration of oysters. U. S. v. 94 Cans of Oysters. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 14770. Sample No. 92393-F.)

LIBEL FILED: December 14, 1944, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 5, 1944, by the J. H. White Co., from Baltimore, Md.

PRODUCT: 94 1-pint cans of oysters at Erie, Pa.

VIOLATION CHARGED: Adulteration, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: January 4, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

7805. Adulteration of frozen shrimp. U. S. v. 23 Boxes and 914 Cartons of Frozen Shrimp (and 2 other seizure actions against frozen shrimp). Decrees of condemnation. Portion of product ordered released under bond; remainder ordered destroyed. (F. D. C. Nos. 14175, 14176, 14789. Sample Nos. 78944-F to 78947-F, incl., 78949-F, 96808-F.)

LIBELS FILED: November 17 and December 19, 1944, Northern District of Illinois and Northern District of Texas.

ALLEGED SHIPMENT: On or about August 19 and 21, 1944, by the Morgan City Packing Co., from Raceland and Morgan City, La.

PRODUCT: 23 boxes, each containing 5 10-pound cartons, and 1,787 10-pound cartons of shrimp at Chicago, Ill., and 5,518 5-pound cartons at Dallas, Tex.

LABEL, IN PART: (Portion) "Fisher Boy Shrimp."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: December 29, 1944. The Booth Fisheries Corporation, claimant for the lot at Dallas, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. On February 6, 1945, no claimant having appeared for the lots at Chicago, judgments of condemnation were entered and the product was ordered destroyed.

FRUITS AND VEGETABLES *

CANNED, DRIED, AND FROZEN FRUITS

7806. Misbranding of canned cherries. U. S. v. Royal Canning Corporation. Plea of guilty. Fine, \$26. (F. D. C. No. 14235. Sample Nos. 55316-F, 64936-F.)

INFORMATION FILED: January 15, 1945, District of Utah, against the Royal Canning Corporation, Ogden, Utah.

ALLEGED SHIPMENT: On or about October 12 and December 3, 1943, from the State of Utah into the States of Idaho and Washington.

LABEL, IN PART: (Cases) "Little Boy Blue Pitted Royal Ann Med. Syrup Cherries," or "Royal Pitted Dark Sweet Heavy Syrup Cherries"; (cans) "Little Boy Blue * * * Light Sweet Pitted Cherries," or "Royal Brand Dark Sweet Pitted Cherries."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the statements, "Pitted * * * Cherries," borne on the cases, and "Pitted Cherries," borne on the cans, were false and misleading since the product consisted of partially pitted cherries; and, Section 403 (h) (1), the product failed to conform to the standard for canned, pitted cherries since more than 1 pit was present in each 20 ounces of the food, and it was not labeled as substandard.

DISPOSITION: February 10, 1945. A plea of guilty having been entered on behalf of the defendant, a fine of \$25 on the first count and \$1 on the second count, a total fine of \$26, was imposed.

7807. Misbranding of canned cherries. U. S. v. 74 Cases of Canned Cherries. Product ordered released under bond. (F. D. C. No. 13441. Sample No. 73395-F.)

LIBEL FILED: August 31, 1944, Northern District of Ohio.

ALLEGED SHIPMENT: On or about July 26, 1944, by the Fairview Packing Co., Oakland, Calif.

PRODUCT: 74 cases, each containing 24 cans, of cherries at Warren, Ohio.

LABEL, IN PART: "IGA Enriched With Dextrose Contents 1 Pound 15 Oz. Light Sweet Royal Anne Cherries in Heavy Syrup."

VIOLATION CHARGED: Misbranding, Section 403 (h) (2), the product purported to be and was represented as canned cherries (light, sweet), a food for which a standard of fill of container has been prescribed by regulations promulgated pursuant to law, and it fell below the standard since there was not present the maximum quantity of the cherry ingredients which could be sealed in the container and processed by heat to prevent spoilage without crushing the ingredient, and its label failed to bear, in the manner and form that the regulations specify, a statement that the product fell below the standard.

DISPOSITION: September 29, 1944. The William Edwards Co., Warren, Ohio, claimant, having admitted the allegations of the libel, the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

*See also Nos. 7702-7709, 7890.

7808. Alleged adulteration of strained peaches. U. S. v. Gerber Products Co. Plea of not guilty. Tried to the court and jury. Verdict of not guilty.
(F. D. C. No. 8830. Sample Nos. 7957-F, 14923-F.)

INFORMATION FILED: May 3, 1943, Western District of Michigan, against the Gerber Products Co., a corporation, Fremont, Mich.

ALLEGED SHIPMENT: On or about September 12, 1942, and January 2, 1943, from the state of Michigan into the states of Minnesota and California.

LABEL, IN PART: "Gerber's New Strained Peaches."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3).

DISPOSITION: On November 16, 1944, a plea of not guilty having been entered on behalf of the defendant, the case came for trial before a jury. The taking of the testimony was concluded on November 20, 1944, on which date the court charged the jury as follows:

RAYMOND, District Judge: "Members of the Jury, the information, which is the formal complaint upon which the respondent is on trial in this case, contains two counts. This means that the respondent, the Gerber Products Company, is here on trial before you upon two separate and distinct charges, and, as I shall later instruct you, it will be within your province, as you may view the evidence, to find the respondent guilty upon both counts of the information, or not guilty upon both counts of the information, or guilty upon one count and not guilty upon the other.

"The information is based upon Sec. 331 (a) and Sec. 342 of Title XXI of the United States Code. Sec. 331 (a) prohibits the introduction or delivery for introduction into interstate commerce of any food that is adulterated. Sec. 342 provides that food shall be deemed to be adulterated if it consists in whole or in part of any filthy, putrid or decomposed substance, or if it is otherwise unfit for food. This section, enacted in the interests of the public health, clearly prohibits shipment in interstate commerce of any food which contains filthy, putrid or decomposed matter.

"The information filed in this case charges in Count 1 substantially as follows: That the Gerber Products Company, a corporation, of Fremont, Michigan, did on or about January 2nd, 1943, in violation of the Federal Food, Drug and Cosmetic Act, unlawfully introduce and deliver for introduction into interstate commerce from Fremont, Michigan, to St. Paul, Minnesota, consigned to Gerber Products Company, a certain consignment, to-wit, a number of cans, each can containing a food within the meaning of the Federal Food, Drug and Cosmetic Act; and that said food when introduced and delivered for introduction into interstate commerce was then and there adulterated within the meaning of the Act of Congress, in that it consisted in whole or in part of a filthy and decomposed substance, by reason of the presence in said food of moldy peach pulp, worm fragments and insect fragments.

"Count 2 charges that this same respondent did on or about the 12th day of September, in the year 1942, in violation of this same act, unlawfully introduce and deliver for introduction into interstate commerce, from Fremont, Michigan, to Los Angeles, California, consigned to Gerber Products Company, a certain consignment, to-wit, a number of cans, each can containing a food, and that said food when introduced and delivered for introduction into interstate commerce was then and there adulterated within the meaning of the Act of Congress, in that it consisted in whole or in part of a filthy or decomposed substance, by reason of the presence in said food of moldy peach pulp, worm fragments and insect fragments. Those are the two charges upon which this respondent is charged with guilt.

"Now the law presumes this respondent to be innocent of the offenses charged against it in the information, and throws around it the protection of that presumption; and the burden rests upon the government to establish by evidence and beyond a reasonable doubt each and every essential element of the offenses charged, and to negative each and every reasonable hypothesis of respondent's innocence. This burden remains upon the government throughout the case, and there is no burden resting upon the respondent to establish its innocence. It will be your duty therefore, as jurors, to commence your deliberations with the presumption of its innocence uppermost in your minds, and to continue your deliberations with that presumption uppermost in your minds until you and each of you has become convinced of the respondent's guilt by the evidence in the case, and beyond a reasonable doubt.

"By a reasonable doubt is meant exactly what the term implies, namely, a doubt for which there is a reason. The reasonable doubt which will prevent a juror from voting for conviction is and it must be a real and a substantial doubt, as distinguished from a merely possible or imaginary one; it must be a fair and an honest doubt, as distinguished from a merely captious or capricious one. It must be a doubt which grows out of the evidence which has been offered and received in the case, and one that is based upon reason and common sense, and not a doubt which grows out of or is based upon bias, or prejudice, or sympathy.

"If any juror has such a reasonable doubt as to the guilt of the respondent, you will have no right to vote for conviction. On the other hand, no juror has the right arbitrarily and without reason to say that he has a doubt, and thereupon refuse to convict. If you have such a reasonable doubt as to the guilt of respondent, it will be your duty to acquit it. On the other hand, if you have no such reasonable doubt, it will be equally your duty to convict the respondent.

"Now, during the course of this charge I shall state to you in substance and in a general way the principal claims of the government and of the respondent. I do not intend to state all of their claims, but only the substance thereof, so that you may know generally what the matters are that are principally in dispute. It will be for you to remember the claims and all of them, from the testimony and from the statements and arguments of counsel, and you will understand that in stating them, the Court does not intend to state them as the Court's own views of what the testimony shows, because that is a matter for you, the jury, exclusively to determine. You are the sole judges of the credibility of the witnesses, and of the weight which should be given to the testimony upon any point in issue, and it is for you and you alone to determine finally what the facts in this case are, entirely uncontrolled by any comment which the Court may make, and to apply to those facts the law as the Court will give it to you in these instructions.

"There are one or two issues that have been eliminated from the case by agreement and stipulations of counsel. It has been agreed between the government and the respondent that the contents of the shipments to St. Paul and to Los Angeles are properly classed as food within the meaning of the statute, and that the shipments were made by the respondent from Fremont, Michigan to those cities as alleged in the information. These goods were, therefore, introduced into interstate commerce by the respondent.

"The principal question for your consideration and determination is whether or not the shipments of strained peaches which were made from Fremont to St. Paul and to Los Angeles on January 2nd, 1943 and on September 12th, 1942 respectively, contained strained peaches which were adulterated within the meaning of the statute. Now I shall not attempt to define the word 'adulterated' to you, for the reason that the definition is contained within the Act of Congress in the following language: 'Food shall be deemed to be adulterated if it consists in whole or in part of any filthy, putrid or decomposed substance, or if it is otherwise unfit for food.' The language is clear.

"You are instructed that the words 'filthy, putrid and decomposed' as used in the Act of Congress are to be construed and applied by you to the evidence in this case in their usual and ordinary meanings. They are not confined to any scientific or medical definitions. You are instructed that the element of criminal intent which is present in many cases is in no way involved in this case. Even the unintentional introduction of adulterated foods into interstate commerce is forbidden by this statute which I have read to you.

"You are instructed that to warrant a verdict of guilty the government must prove beyond a reasonable doubt that the strained peaches in these shipments contained filthy, putrid or decomposed substances in substantial amounts. The respondent urges that it is impossible in practice in the production and canning of strained peaches to entirely eliminate all such contamination at all times. The government claims, however, that these objectionable elements were present in the shipments here involved in such substantial quantities that it was entirely within the power of the respondent by the exercise of reasonable care to have eliminated these foreign substances entirely, and that respondent does, in fact, when it exercises proper care, accomplish that result.

"You are instructed, however, that it was not the intention of Congress to include as a criminal offense the presence of filthy, putrid or decomposed matter in such infinitesimal and inconsequential quantities as even the highest degree

of care could not eliminate. You are instructed, however, that the presence of worm heads, worm legs, portions of worm bodies, fragments, fly eggs, mites and rotted peach tissue with mold in such a substantial quantity that such contamination should have been discovered and eliminated would constitute adulteration within the definition of the statute.

"If you do find beyond a reasonable doubt that the food in question was filthy or putrid, or that it contained decomposed substances within the usual and ordinary meaning of those words, you are instructed that it is not essential to a verdict of guilty that you shall also find that the contents of the cans were poisonous or were deleterious to health or were otherwise unfit for food. It is for you to determine from the evidence in the case what the facts are with reference to the condition of the food in question at the time it was introduced into interstate commerce, and having determined those facts to reach your conclusion as to whether or not the food was adulterated within the meaning of that word as defined in the statute.

"Of course, if you believe from the evidence that it was practically impossible in actual practice to free the strained peaches entirely and at all times from the presence of rotten peach tissue, mold, worm heads, worm legs, portions of worm bodies, fragments, fly eggs and mites, and that such contamination was present in the shipments here under consideration in such infinitesimal and microscopic quantities that you do not regard it as filthy, putrid or decomposed in the usual, natural and practical sense of those words, then your verdict should be for the respondent of 'Not guilty.' On the other hand, if you find beyond a reasonable doubt, as I have defined that term, that the strained peaches here involved contained substantial amounts of these foreign substances, then your verdict should be 'guilty as charged.'

"You are the sole judges of the credibility of the witnesses. It is for you and you alone to determine who has told the truth and where the truth lies. You will give to the testimony of each and every witness such weight and credence as you believe it is entitled to, and in weighing and measuring the testimony of each witness you have the right to take into consideration his appearance upon the witness stand, the reasonableness or unreasonableness of the story which he has told. You have a right to take into consideration any motive which he may have had for testifying falsely. You have a right to take into consideration any interest which he may have in this prosecution or its outcome. You have no right for trivial reasons to find that any witness has testified falsely, and it will be your duty if possible to harmonize and reconcile the testimony of the witnesses in this case upon the theory and basis that each and every witness has attempted to tell the truth. If you are unable to do so, it will then be your duty to determine the testimony which is true and that which is untrue, and when you have made that determination, you will discard and disregard the testimony which you find to be untrue and reach a verdict based upon all the evidence in the case which under all the circumstances you believe to be true.

"Now this case is important. All criminal cases, of course, are important. It is important that no innocent respondent should be convicted. It is important that due process of law should be at all times observed and that no one shall be convicted by a jury until that jury, after a fair, candid and impartial scrutiny of the testimony has reached the conclusion therefrom under the law as I have given it to you that the respondent is guilty beyond a reasonable doubt. Upon having reached that conclusion, however, if you do so, then the interest of the public intervenes, and it is of the utmost importance that the law should be vindicated, and that offenders against the majesty of the law should be made to answer for their crimes. In the performance of that duty there is no place for prejudice, passion or sympathy. You should go forward to your duty, so that you will see nothing except the law, the evidence, and your duty, and you should enter upon the consideration of this case with those facts uppermost in your minds.

"As I have indicated, you may convict the respondent upon both counts of the information. You may convict it upon one count and acquit upon the other; or you may acquit it upon both counts. If you find from all the evidence and beyond a reasonable doubt, as I have defined it, that the food was adulterated within the definition contained in the statute at the time each of the shipments were introduced into interstate commerce, then your verdict should be 'Guilty as charged.' If you find that it was not so adulterated, then your verdict should be 'We find the respondent not guilty.' If you find that there

was adulteration as to one of the shipments and not as to the other, you will indicate by your verdict the count upon which you acquit and the count upon which you convict, bearing in mind that the first count sets forth the shipment of January 2nd, 1943, from Fremont to St. Paul, and that the second count sets forth the shipment from Fremont to Los Angeles, on September 12th, 1942."

On November 20, 1944, the jury, after due deliberation, returned a verdict of not guilty.

7809. Adulteration of dried, unpitted apricots. U. S. v. 95 Cases of Dried Unpitted Apricots. Decree ordering that the product be released under bond. (F. D. C. No. 14936. Sample No. 73027-F.)

LIBEL FILED: January 3, 1945, Northern District of California.

ALLEGED SHIPMENT: On or about December 8, 1944, by the Callahan Supply Co., from Seattle, Wash.

PRODUCT: 95 25-pound cases of dried, unpitted apricots at San Francisco, Calif.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of larvae, insect excreta, and moldy apricots.

DISPOSITION: January 31, 1945. The Albert Asher Co., San Francisco, Calif., having appeared as claimant, judgment was entered ordering that the product be released under bond to be brought into compliance with the law, under the direction of the Food and Drug Administration.

7810. Adulteration of prunes. U. S. v. 135 Boxes of Prunes. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14836. Sample No. 89980-F.)

LIBEL FILED: January 2, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about December 22, 1942, by the Rosenberg Bros. Co., from Myrtle Creek, Oreg.

PRODUCT: 135 25-pound boxes of prunes at St. Louis, Mo.

LABEL, IN PART: "Atlas Brand Prunes."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments.

DISPOSITION: February 12, 1945. The Bohn-Lenartz Co., a corporation, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into conformity with the law, and that such portions as should not be passed as fit for food by the Food & Drug Administration be destroyed.

7811. Adulteration of raisins. U. S. v. 179 Cases of Raisins. Default decree of condemnation and destruction. (F. D. C. No. 14991. Sample No. 74740-F.)

LIBEL FILED: On or about January 19, 1945, District of Oregon.

ALLEGED SHIPMENT: On or about June 23, 1944, by the Puccinelli Packing Co., from Turlock, Calif.

PRODUCT: 179 30-pound cases of raisins at Portland, Oreg.

LABEL, IN PART: "Alma Brand Thompson Seedless Raisins."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles and larvae.

DISPOSITION: February 28, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7812. Adulteration of raisins. U. S. v. 215 Cases of Raisins. Default decree of condemnation and destruction. (F. D. C. No. 15005. Sample No. 74741-F.)

LIBEL FILED: January 22, 1945, District of Oregon.

ALLEGED SHIPMENT: On or about July 22, 1944, by the Central California Packing Co., from Del Rey, Calif.

PRODUCT: 215 30-pound cases of raisins, at Portland, Oreg.

LABEL, IN PART: "Del Cara Brand Thompson Seedless Raisins."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect excreta.

DISPOSITION: February 26, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7813. Adulteration of stuffed fruit. U. S. v. 723 Packages of Stuffed Fruit. Default decree of condemnation and destruction. (F. D. C. No. 14994. Sample Nos. 73264-F, 73265-F, 73268-F, 73269-F.)

LIBEL FILED: January 15, 1945, Northern District of California.

ALLEGED SHIPMENT: On or about November 2 and 9, 1944, by the Liberty Fig and Date Co., from Chicago, Ill.

PRODUCT: 331 2-pound packages and 392 1-pound packages of stuffed fruit at Oakland, Calif.

LABEL, IN PART: "Delicious Stuffed Fruit [or "Fruits"]."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of wormy, sour, and moldy white figs.

DISPOSITION: March 31, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7814. Adulteration of frozen raspberries. U. S. v. 21 Barrels of Frozen Raspberries. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14887. Sample No. 93962-F.)

LIBEL FILED: January 3, 1945, District of New Jersey.

ALLEGED SHIPMENT: On or about December 6, 1944, by Bardinnet Exports, Inc., from Middleport, N. Y.

PRODUCT: 21 barrels, each containing approximately 450 pounds, of frozen raspberries, at Elizabeth, N. J.

LABEL, IN PART: "Cold Packed Columbian Raspberries * * * Packed by George W. Haxton & Son, Inc., Oakfield, N. Y."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy berries.

DISPOSITION: February 5, 1945. Bardinnet Exports, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for distillation purposes.

FRUIT BUTTERS, JAMS, AND JELLIES

7815. Adulteration and misbranding of apple butter. U. S. v. 49 Cases of Apple Butter. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 14123. Sample No. 74233-F.)

LIBEL FILED: October 25, 1944, Southern District of Texas.

ALLEGED SHIPMENT: On or about September 13, 1944, by the California Preserving Co., from Los Angeles, Calif.

PRODUCT: 49 cases, each containing 12 jars, of apple butter, at Galveston, Tex.

LABEL, IN PART: "Catalina Brand Pure Apple Butter Net Contents 1 Lb. 12 Oz. Made from Fresh Apples."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), a product insufficiently concentrated had been substituted in whole or in part for apple butter.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for apple butter since the soluble solids content of the finished product was less than 43 percent.

DISPOSITION: January 3, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

7816. Adulteration and misbranding of jams. U. S. v. 34 Cases of Jams. Default decree of condemnation. Products ordered distributed to charitable institutions. (F. D. C. No. 14018. Sample Nos. 88040-F, 88041-F.)

LIBEL FILED: October 14, 1944, District of Rhode Island.

ALLEGED SHIPMENT: On or about June 5 and July 27, 1944, by the Mactavish Preserves Co., Inc., from Brooklyn, N. Y.

PRODUCT: 28 cases, each containing 24 jars, of strawberry jam, and 6 cases, each containing 24 jars, of apricot jam, at Woonsocket, R. I.

LABEL, IN PART: "Mactavish Pure Strawberry Jam [or "Apricot Jam"]."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), products deficient in fruit had been substituted in whole or in part for strawberry and apricot jams, foods for which definitions and standards of identity have been prescribed by regulations promulgated pursuant to law.

Misbranding, Section 403 (g) (1), the products failed to conform to the definitions and standards of identity for strawberry and apricot jams since they had been made from mixtures composed of less than 45 parts by weight of one of the fruit ingredients to each 55 parts by weight of one of the saccharine ingredients specified in the regulations.

DISPOSITION: November 18, 1944. No claimant having appeared, judgment of condemnation was entered and the products were ordered distributed to certain charitable institutions.

7817. Adulteration and misbranding of blackberry jam. U. S. v. 85 Cases of Blackberry Jam. Default decree of condemnation. Product ordered delivered to local hospitals. (F. D. C. No. 14344. Sample No. 93011-F.)

LIBEL FILED: November 1, 1944, District of Columbia.

ALLEGED SHIPMENT: On or about September 28, 1944, by the Standard Fruit Product Co., from Cincinnati, Ohio.

PRODUCT: 85 cases, each containing 6 jars, of blackberry jam at Washington, D. C.

LABEL, IN PART: "Sugarnut Quality Black Berry Jam."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 68 percent soluble solids had been substituted in whole or in part for blackberry jam, a food for which the soluble solids content has been fixed at not less than 68 percent by regulations establishing a reasonable definition and standard of identity for blackberry jam.

Misbranding, Section 403 (g) (1), the product purported to be and was represented as blackberry jam, a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to such definition and standard.

DISPOSITION: December 7, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to local hospitals, for their use and not for sale.

7818. Adulteration and misbranding of apple jelly. U. S. v. 169 Cases of Apple Jelly. Default decree of condemnation. Product ordered delivered to a Federal institution. (F. D. C. No. 12859. Sample No. 71644-F.)

LIBEL FILED: July 8, 1944, District of Montana.

ALLEGED SHIPMENT: On or about March 17, 1944, by the Southwest Food Products Co., from Long Beach, Calif.

PRODUCT: 169 cases, each containing 12 2-pound jars, of apple jelly, at Missoula, Mont.

LABEL, IN PART: (Jars) "Dude Ranch Pure Apple Jelly."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), a product of less than 65 percent soluble solids content had been substituted in whole or in part for apple jelly.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for apple jelly since it had not been concentrated by heat to such point that its soluble solids content was not less than 65 percent; and, Section 403 (a), the name "Apple Jelly," appearing in the labeling, was false and misleading since the product failed to conform to the definition and standard of identity for fruit jelly promulgated pursuant to law.

DISPOSITION: December 23, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal institution.

7819. Adulteration and misbranding of jelly. U. S. v. 35 Cases of Blackberry Jelly, 84 Cases of Red Raspberry Jelly, 94 Cases of Strawberry Jelly, 115 Cases of Currant Jelly, and 50 Cases of Cherry Jelly. Consent decree of condemnation. Products ordered released under bond. (F. D. C. No. 12861. Sample Nos. 38401-F, 54897-F to 54900-F, incl.)

LIBEL FILED: On or about July 6, 1944, Eastern District of Wisconsin.

ALLEGED SHIPMENT: On or about April 6 and May 5, 1944, by the Phillips, Co., Inc., from Chicago, Ill.

PRODUCT: 378 cases, each containing 24 12-ounce jars, of jelly at Milwaukee, Wis.

LABEL, IN PART: (Jars) "Phillips Blackberry [or "Red Raspberry," "Strawberry," "Currant," or "Cherry"] Jelly."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), valuable constituents, fruit juices, had been in part omitted from the products; and, Section 402 (b) (2), products deficient in fruit juices, insufficiently concentrated, and containing added water and phosphoric acid or acid phosphate, had been substituted in whole or in part for blackberry, red raspberry, strawberry, currant, and cherry jellies.

Misbranding, Section 403 (g) (1), the products failed to conform to the definitions and standards of identity for fruit jellies since they had not been concentrated by heat to such point that their soluble solids content was not less than 65 percent, and since they contained added water and phosphoric acid or acid phosphate, which are not permitted as optional ingredients of fruit jellies; Section 403 (a), the names "Blackberry Jelly," "Red Raspberry Jelly," "Strawberry Jelly," "Currant Jelly," and "Cherry Jelly," in the labeling, were false and misleading; and, Section 403 (b), the products were offered for sale under the names of other foods.

DISPOSITION: December 13, 1944. The Phillips Co., Inc., claimant, having consented to the entry of the decree, judgment of condemnation was entered and the products were ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

VEGETABLES*

7820. Misbranding of canned asparagus. U. S. v. 38 Cases of Canned Asparagus. Default decree of condemnation. Product delivered to charitable institutions. (F. D. C. No. 14979. Sample No. 73172-F.)

LIBEL FILED: January 11, 1945, District of South Dakota.

ALLEGED SHIPMENT: On or about November 17, 1944, by Parrott & Co., from Oakland, Calif.

PRODUCT: 38 cases, each containing 24 1-pound, 3-ounce cans, of asparagus at Watertown, S. Dak.

LABEL, IN PART: "Bountiful All Green Cut California Asparagus."

VIOLATION CHARGED: Misbranding, Section 403 (a), the vignette on the label depicting a dish containing a considerable proportion of asparagus tips, and the label statement, "All Green Cut California Asparagus," were false and misleading since the article consisted of center and bottom cuts from the asparagus stalk, but contained no tips.

DISPOSITION: February 13, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered disposed of by the United States marshal. The product was distributed to various charitable institutions.

7821. Adulteration of Garbanzos beans (chick peas). U. S. v. 67 Bags of Garbanzos Beans. Default decree of condemnation and destruction. (F. D. C. No. 14062. Sample No. 63808-F.)

LIBEL FILED: October 26, 1944, Southern District of Florida.

ALLEGED SHIPMENT: On or about March 30, 1944, by L. N. White & Co., from New York, N. Y.

PRODUCT: 67 110-pound bags of Garbanzos beans at Tampa, Fla.

LABEL, IN PART: "Garbanzo de Sinaloa."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, webbing, insect frass, and insect excreta.

DISPOSITION: December 4, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7822. Adulteration of canned, strained green beans. U. S. v. 180 Cartons of Canned Strained Green Beans. Default decree of condemnation and destruction. (F. D. C. No. 14974. Sample Nos. 68190-F, 68400-F.)

LIBEL FILED: January 11, 1945, Northern District of Ohio.

*See also No. 7890.

ALLEGED SHIPMENT: On or about October 1, 1942, by Harold H. Clapp, Inc., Rochester, N. Y.

PRODUCT: 180 cartons, each containing 12 4½-ounce cans, of strained green beans at Cleveland, Ohio.

LABEL, IN PART: "Clapp's Strained Baby Foods Strained Green Beans."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of an abnormal, metallic taste due to corrosion of the can.

DISPOSITION: February 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7823. Adulteration of lima beans, pinto beans, and pink beans. U. S. v. 327 Cases of Lima Beans, 93 Bags of Pinto Beans, and 51 Bags of Pink Beans. Consent decrees of condemnation. Products ordered released under bond. (F. D. C. Nos. 14706 to 14708, incl. Sample Nos. 80982-F, 80984-F, 80985-F.)

LIBELS FILED: December 5 and 6, 1944, Western District of Missouri.

ALLEGED SHIPMENT: Between the approximate dates of December 4, 1942, and February 26, 1944, from Saticoy, Calif., Denver, Colo., and Stockton, Calif.

PRODUCT: 327 cases, each containing 24 2-pound bags, of lima beans, 93 100-pound bags of pinto beans, and 51 100-pound bags of pink beans, at Kansas City, Mo., in the possession of John J. Meier and Co. These products had been stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination of samples showed the presence of rodent hairs, hairs resembling rodent hairs, and rodent pellets.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: December 21, 1944. John J. Meier and Co., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the products were ordered released under bond for segregating the fit from the unfit portion, under the supervision of the Food and Drug Administration. The unfit portion was delivered to a public institution, for use as hog feed.

7824. Adulteration of canned pork and beans with tomato sauce. U. S. v. 317 Cases of Canned Pork and Beans. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 14995. Sample No. 70334-F.)

LIBEL FILED: January 18, 1945, Northern District of Texas.

ALLEGED SHIPMENT: On or about January 13, 1943, by the Morgan Packing Co., Austin, Ind.

PRODUCT: 317 cases, each containing 24 1-pound, 1½-ounce cans, of pork and beans at Lubbock, Tex.

LABEL, IN PART: "American Beauty Pork & Beans with Tomato Sauce."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: March 27, 1945. The Morgan Packing Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

7825. Adulteration of canned beets. U. S. v. 388 Cases of Canned Beets. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14696. Sample No. 89740-F.)

LIBEL FILED: December 1, 1944, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about August 27, 1942, by the Hartmann Canning Co., from Macedon, N. Y.

PRODUCT: 388 cases, each containing 6 cans, of beets at St. Louis, Mo.

LABEL, IN PART: "Hartmann Brand Sliced Beets Contents 6 Lbs. 8 Ounces."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: January 11, 1945. The Bohn-Lenartz Co., St. Louis, Mo., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be destroyed or

brought into compliance with the law, under the supervision of the Food and Drug Administration.

7826. Adulteration of canned corn. U. S. v. 260 Cases of Canned Corn (and 3 other seizure actions against canned corn). Default decrees of condemnation and destruction. (F. D. C. Nos. 14782, 14803, 14804, 14939. Sample Nos. 74786-F, 83547-F, 83803-F, 83811-F, 83855-F, 83859-F.)

LIBELS FILED: Between the approximate dates of December 20, 1944, and January 15, 1945, Western District of Washington, District of Oregon, and Northern District of California.

ALLEGED SHIPMENT: Between the approximate dates of August 7 and 11, 1944, by the Sterling Canning Co., from Sterling, Ill.

PRODUCT: A total of 579 cases, each containing 24 cans, of corn at Tacoma, Wash., Eugene, Salem, Klamath Falls, and Astoria, Oreg., and Yreka, Calif.

LABEL, IN PART: "Nation's Garden Brand Cream Style Golden Sweet Corn Contents 1 Lb. 4 Oz."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: Between February 5 and 27, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

7827. Adulteration of dried mushrooms. U. S. v. 6 Cartons of Dried Mushrooms. Default decree of condemnation and destruction. (F. D. C. No. 14771. Sample No. 86563-F.)

LIBEL FILED: On or about January 4, 1945, Northern District of Illinois.

ALLEGED SHIPMENT: On or about October 15 and November 1, 1944, by Peter Mayer, from Merrilan and Hatfield, Wis.

PRODUCT: 3 cartons, containing a total of approximately 75 pounds, 2 cartons, containing a total of approximately 35 pounds, and 1 carton containing approximately 20 pounds, of dried mushrooms at Cicero, Ill.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae and maggots.

DISPOSITION: February 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7828. Adulteration of dried mushrooms. U. S. v. 57 Cards of Mushrooms. Default decree of condemnation and destruction. (F. D. C. No. 14824. Sample No. 90619-F.)

LIBEL FILED: December 22, 1944, Northern District of Ohio.

ALLEGED SHIPMENT: On or about November 10, 1944, by Sokol and Co., Chicago, Ill.

PRODUCT: 57 cards, each bearing 12 cellophane bags, of dried mushrooms at Cleveland, Ohio.

LABEL, IN PART: "Shield (S) Brand Dried Mushrooms."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of maggots.

DISPOSITION: February 2, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

Nos. 7829 to 7831 report actions involving canned peas that purported to be a food for which a standard of quality has been prescribed by law, but the quality fell below the standard because of higher alcohol-insoluble solids than the maximum permitted by the standard, and the labels failed to bear, in the manner and form that the regulations specify, a statement that the product was below the standard.

7829. Misbranding of canned peas. U. S. v. 103 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14456. Sample No. 89842-F.)

LIBEL FILED: November 14, 1944, Western District of Tennessee.

ALLEGED SHIPMENT: On or about August 14, 1944, by the Mississippi Valley Canning Co., from Osceola, Ark.

PRODUCT: 103 cases, each containing 24 1-pound, 4-ounce cans, of peas at Paris, Tenn.

LABEL, IN PART: "Little Andy Early June Variety Sifted Peas."

VIOLATION CHARGED: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: January 31, 1945. The Mississippi Valley Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Federal Security Agency.

7830. Misbranding of canned peas. U. S. v. 113 Cases of Canned Peas. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 14011. Sample No. 63744-F.)

LIBEL FILED: October 5, 1944, Middle District of North Carolina.

ALLEGED SHIPMENT: On or about August 25, 1943, by the Frederick City Packing Co., from Thurmont, Md.

PRODUCT: 113 cases, each containing 24 cans, of peas at North Wilkesboro, N. C.

LABEL, IN PART: "Pride of the Valley Brand Early June Peas."

VIOLATION CHARGED: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: December 12, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

7831. Misbranding of canned peas. U. S. v. 98 Cases of Canned Peas (and 3 other seizure actions against canned peas). Decrees of condemnation. One lot ordered delivered to a charitable institution; remaining lots ordered released under bond. (F. D. C. Nos. 14866, 14892, 14893, 15153. Sample Nos. 93754-F, 93841-F, 93842-F, 2203-H.)

LIBELS FILED: Between December 26, 1944, and February 9, 1945, Eastern District of New York and Eastern District of Virginia.

ALLEGED SHIPMENT: On or about October 12 and November 28, 1944, by Draper and Co., Inc., from Milford, Del.

PRODUCT: 194 cases, each containing 6 cans, of peas at Norfolk, Va., and 179 cases, each containing 24 cans, of peas at Brooklyn, N. Y.

LABEL, IN PART: (Cans) "Mispillion [or "Can Dandy," or "Milford"] Brand Run of the Pod Early June Peas."

VIOLATION CHARGED: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: February 16, 1945. Draper and Co., Inc., claimant for the Brooklyn lots, having admitted the allegations of the libels, and the libel proceedings against those lots having been consolidated, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration. On March 7, 1945, no claimant having appeared for the Norfolk lot, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

7832. Adulteration of pickles. U. S. v. 85 Cases of Pickles. Default decree of condemnation and destruction. (F. D. C. No. 15898. Sample Nos. 10238-H, 10442-H.)

LIBEL FILED: April 10, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about May 12, 1944, by Klein's Food Products, Garfield Heights, Ohio.

PRODUCT: 85 cases, each containing 12 1-quart jars, of pickles at Washington, Pa.

LABEL, IN PART: "Mother Klein's Old Fashioned Chunky Kosher Dills."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: May 2, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7833. Adulteration of pickles. U. S. v. 100 Cases of Pickles (and 4 other seizure actions against pickles). Decrees of condemnation. Portion of product ordered released under bond; remainder ordered destroyed. (F. D. C. Nos. 13471, 13472, 13960 to 13962, incl. Sample Nos. 13652-F, 73696-F to 73698-F, incl., 73747-F, 73867-F to 73871-F, incl.)

LIBELS FILED: August 31 and October 13 and 14, 1944, Southern District of California.

ALLEGED SHIPMENT: On or about July 8 and 10, 1944, by the Berger Foods Co., from St. Louis, Mo.

PRODUCT: 100 cases, each containing 12 1-quart jars, of pickles at San Diego, Calif.; 851 cases, each containing 12 1-quart jars, and 81 cases, each containing 6 ½-gallon jars, of pickles at Los Angeles, Calif. Examination showed that the product had undergone spoilage.

LABEL, IN PART: "Bergers Sliced [or "Whole"] Fresh Kosher [or "Dill"] Pickles."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: September 15 and 16, 1944. The Berger Foods Co., claimant for the 100 cases at San Diego and 545 cases at Los Angeles, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond for segregation of the fit portion from the unfit portion, under the supervision of the Food and Drug Administration. November 20, 21, and 25, 1944. No claimant having appeared for the remaining lots, judgments of condemnation were entered and the product was ordered destroyed.

7834. Adulteration and misbranding of sauerkraut. U. S. v. 150 Cases of Sauerkraut. Default decree of forfeiture and destruction. (F. D. C. No. 12844. Sample No. 61567-F.)

LIBEL FILED: July 3, 1944, Western District of Texas.

ALLEGED SHIPMENT: On or about April 12, 1944, by the Mayfair Food Products Co., Chicago, Ill.

PRODUCT: 150 cases, each containing 12 1-quart jars, of sauerkraut at Austin, Tex.

LABEL, IN PART: (Jars) "Mayfair Set Sauer Kraut."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), brine had been substituted in part for sauerkraut, which the article purported and was represented to be.

Misbranding, Section 403 (d), the article's container was so filled as to be misleading since the jars containing the article were large enough to hold about 30 percent more sauerkraut, and they appeared to contain more kraut than they did.

DISPOSITION: February 1, 1945. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

7835. Adulteration and misbranding of sauerkraut. U. S. v. 15 Cases and 50 Cases of Sauerkraut. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 14608. Sample Nos. 83032-F, 83033-F.)

LIBEL FILED: On or about November 27, 1944, District of Connecticut.

ALLEGED SHIPMENT: On or about October 26 and 31, 1944, by the Union County Pickle Co., Inc., from Elizabeth, N. J.

PRODUCT: 15 cases, each containing 24 1-pint jars, and 50 cases, each containing 12 1-quart jars, of sauerkraut at New Haven, Conn.

LABEL, IN PART: (Jars) "Mother May's Sauerkraut * * * Packed by Mrs. Warner's Preserving Co., Elizabeth, N. J."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), sauerkraut containing an excessive amount of brine and vinegar had been substituted in whole or in part for sauerkraut containing a normal amount of packing medium.

Misbranding, Section 403 (d), the container was so filled as to be misleading since, because of the tendency of the sauerkraut to disperse in the liquid packing medium, the jars appeared to be filled, whereas the pint jars containing the article were large enough to hold at least 35 percent more sauerkraut, and the quart jars at least 45 percent more sauerkraut.

DISPOSITION: February 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions, after removal of the labels.

7836. Adulteration and misbranding of sauerkraut. U. S. v. 60 Cases of Sauerkraut. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 14607. Sample No. 83031-F.)

LIBEL FILED: On or about November 27, 1944, District of Connecticut.

ALLEGED SHIPMENT: On or about November 3, 1944, by the New Jersey Empire Pickle Works, Inc., from Newark, N. J.

PRODUCT: 60 cases, each containing 12 1-quart jars of sauerkraut at New Haven, Conn. Examination showed that the jars contained an average of 18.06 ounces avoirdupois of drained kraut and 15.15 ounces avoirdupois of liquid packing medium, consisting of brine and vinegar. This size jar should contain at least 25 ounces avoirdupois of drained kraut. The jars had the deceptive appearance of being completely filled with sauerkraut.

LABEL, IN PART: (Jar) "Boyd Brand Sauerkraut."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), brine and vinegar had been substituted in part for sauerkraut.

Misbranding, Section 403 (d), the container was so filled as to be misleading since, because of the tendency of the sauerkraut to disperse in the liquid packing medium, the jars appeared to be filled, whereas they were large enough to hold at least 35 percent more sauerkraut.

DISPOSITION: February 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions, after removal of the labels.

7837. Adulteration of canned spinach. U. S. v. 258 Cases of Canned Spinach. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14502. Sample No. 87379-F.)

LIBEL FILED: November 24, 1944, District of Minnesota.

ALLEGED SHIPMENT: On or about August 9, 1944, by the Hargis Canneries, Inc., from Fayetteville, Ark.

PRODUCT: 258 cases, each containing 6 6-pound, 2-ounce cans, of spinach at Minneapolis, Minn.

LABEL, IN PART: "Hargis Brand Spinach."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: February 7, 1945. The Hargis Canneries, claimant, having admitted the material allegations of the libel with respect to a portion of the product, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the good cans be segregated from the bad, under the supervision of the Food and Drug Administration.

7838. Adulteration of canned spinach. U. S. v. 264 Cases and 125 Cases of Canned Spinach. Default decrees of condemnation and destruction. (F. D. C. Nos. 15015, 15016. Sample Nos. 90050-F, 90051-F.)

LIBEL FILED: January 22, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about August 28 and October 2, 1944, by the Clarksville Cooperative Canning Association, from Clarksville, Ark.

PRODUCT: 389 cases, each containing 24 cans, of spinach, at St. Louis, Mo.

LABEL, IN PART: "Home Town Brand Spinach," or "Coast Brand Spinach."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: February 24 and 26, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

TOMATOES AND TOMATO PRODUCTS*

7839. Adulteration of canned tomatoes. U. S. v. 84 Cases of Canned Tomatoes. Default decree of condemnation. Product ordered segregated and the good portion donated to charity. (F. D. C. No. 13107. Sample No. 72569-F.)

LIBEL FILED: August 5, 1944, Western District of Tennessee.

*See also No. 7824.

ALLEGED SHIPMENT: On or about June 24, 1944, by the Quality Products, Inc., from LaFeria, Tex.

PRODUCT: 84 cases, each containing 24 cans, of tomatoes at Memphis, Tenn.

LABEL, IN PART: "Curtis Tomatoes Contents 1 Lb. 3 Oz. Avd."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: December 15, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered segregated, under the supervision of an officer designated by the Federal Security Administrator, the good portion to be donated to charity and the bad portion destroyed. On December 16, 1944, an amended decree was entered providing for the collection of ration points on the salvaged product.

7840. Adulteration of canned tomatoes. U. S. v. 24 Cases and 17 Cartons of Canned Tomatoes. Default decrees of condemnation and destruction. (F. D. C. Nos. 15077, 15093. Sample Nos. 93755-F, 93844-F.)

LIBEL FILED: January 22 and 25, 1945, Southern District of New York.

ALLEGED SHIPMENT: December 4 and 5, 1944, by John Minervini, from Hoboken, N. J.

PRODUCT: 24 cases, each containing 6 cans, of tomatoes at Poughkeepsie, N. Y., and 17 cartons, each containing 6 cans, of tomatoes at New York, N. Y.

LABEL, IN PART: "Minervini Brand Unpeeled Tomatoes * * * Italian Style."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: February 14, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

7841. Misbranding of canned tomatoes. U. S. v. 700 Cases of Canned Tomatoes. Decree of condemnation. Product ordered released under bond for re-labeling. (F. D. C. No. 14600. Sample No. 89873-F.)

LIBEL FILED: November 29, 1944, Northern District of Mississippi.

ALLEGED SHIPMENT: On or about September 26, 1944, by the Ripley Canning Co., from Ripley, Tenn.

PRODUCT: 700 cases, each containing 24 cans, of tomatoes at Clarksdale, Miss. The product was substandard in quality and was short-weight.

LABEL, IN PART: (Can) "Forked Deer Brand Hand Packed Tomatoes."

VIOLATIONS CHARGED: Misbranding, Section 403 (h) (1), the quality of the product fell below the standard for canned tomatoes because of the presence of excessive peel and an excessive proportion of liquid and small pieces; Section 403 (h) (2), it fell below the standard of fill of container since it was filled to less than 90 percent of the total capacity of the container; and its label failed to bear, in such manner and form as the regulations specify, a statement that it fell below the standard; and, Section 403 (e) (2), it was a food in package form and it failed to bear a label containing an accurate statement of the quantity of the contents since the label statement, "Contents 1 Lb. 3 Ozs.," was inaccurate.

DISPOSITION: January 22, 1945. The Ripley Canning Co., Ripley, Tenn., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

7842. Adulteration of tomato catsup. U. S. v. 718 Cases of Tomato Catsup. Default decree of condemnation and destruction. (F. D. C. No. 15188. Sample No. 18303-H.)

LIBEL FILED: February 1, 1945, Northern District of Iowa.

ALLEGED SHIPMENT: On or about December 12, 1944, by the Vincennes Packing Corporation, Seymour, Ind.

PRODUCT: 718 cases, each containing 24 bottles, of tomato catsup at Sioux City, Iowa.

LABEL, IN PART: "Alice of Old Vincennes Tomato Catsup."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: February 27, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7843. Adulteration of tomato catsup. U. S. v. 185 Cases of Tomato Catsup. Default decree of condemnation and destruction. (F. D. C. No. 14905. Sample No. 67572-F.)

LIBEL FILED: January 8, 1945, Eastern District of Kentucky.

ALLEGED SHIPMENT: On or about November 11, 1944, by the Morgan Packing Co., from Austin, Ind.

PRODUCT: 185 cases, each containing 24 bottles, of tomato catsup at Somerset, Ky.

LABEL, IN PART: "Old Mammy's Brand Tomato Catsup."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of decomposed tomato material.

DISPOSITION: February 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7844. Adulteration of tomato catsup. U. S. v. 498 Cases of Tomato Catsup. Default decree of condemnation and destruction. (F. D. C. No. 15002. Sample No. 54696-F.)

LIBEL FILED: On or about January 26, 1945, Northern District of Illinois.

ALLEGED SHIPMENT: On or about October 13, 1944, by the Fettig Canning Corporation, from Elwood, Ind.

PRODUCT: 498 cases, each containing 24 14-ounce bottles, of tomato catsup at Chicago, Ill.

LABEL, IN PART: "Vine-Ripe Tomato Catsup."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: March 13, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7845. Adulteration and misbranding of tomato paste. U. S. v. 2 Cases of Tomato Paste. Default decree of condemnation and destruction. (F. D. C. No. 15086. Sample No. 93845-F.)

LIBEL FILED: January 25, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about November 27, 1944, by John Minervini, Hoboken, N. J.

PRODUCT: 2 cases, each containing 100 6-ounce cans, of tomato paste at Mount Vernon, N. Y.

LABEL, IN PART: (Cans) "Minervini Brand Tomato Paste."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence therein of flies. Misbranding, Section 403 (g), the article failed to conform to the definition and standard of identity for tomato paste since it contained less than 25 percent of salt-free tomato solids.

DISPOSITION: February 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7846. Adulteration and misbranding of tomato paste. U. S. v. 299 Cases of Tomato Paste. Default decree of condemnation and destruction. (F. D. C. No. 13272. Sample No. 61356-F.)

LIBEL FILED: On or about August 28, 1944, Western District of Louisiana.

ALLEGED SHIPMENT: On or about July 10, 1944, by the Taormina Co., Donna, Tex.

PRODUCT: 299 cases, each containing 100 6-ounce cans, of tomato paste at DeQuincy, La.

LABEL, IN PART: "Farmaiola Brand Fancy Tomato Paste (Salsa Di Pomodoro)."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for tomato paste since it contained less than 25 percent of salt-free tomato solids.

DISPOSITION: December 7, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7847. Misbranding of tomato paste. U. S. v. 247 Cases of Tomato Paste. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15087. Sample No. 84547-F.)

LIBEL FILED: January 23, 1945, District of Maryland.

ALLEGED SHIPMENT: On or about December 26, 1944, by Parrott and Co., from Oakland, Calif.

PRODUCT: 247 cases, each containing 6 6-pound, 14-ounce cans, of tomato paste at Baltimore, Md.

LABEL, IN PART: (Cans) "Lido Brand Tomato Paste * * * Packed by Thornton Canning Co., Thornton, Calif."

VIOLATION CHARGED: Misbranding, Section 403 (g), the article failed to conform to the definition and standard for tomato paste since it contained less than 25 percent of salt-free tomato solids.

DISPOSITION: February 27, 1945. A. J. Harris & Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

7848. Adulteration of tomato puree and tomato paste. U. S. v. 349 Cases of Tomato Puree (and 4 other seizure actions against tomato puree and tomato paste). Default decrees of condemnation and destruction. (F. D. C. Nos. 14405, 14413, 14415, 14416, 14442. Sample Nos. 78275-F, 78276-F, 78278-F, 92922-F to 92924-F, incl., 92930-F.)

LIBELS FILED: Between on or about November 8 and 20, 1944, District of Maryland and Eastern District of Pennsylvania.

ALLEGED SHIPMENT: Between on or about October 10 and 17, 1944, by the Uddo and Taormina Co., from Vineland, N. J.

PRODUCT: 391 cases, each containing 24 cans, of tomato puree, and 64 cases, each containing 100 cans, of tomato paste at Baltimore, Md.; and 21 cases, each containing 24 cans, of tomato puree, and 70 cases, each containing 100 cans, of tomato paste at Philadelphia, Pa.

LABEL, IN PART: (Cans) "Mountain Beauty Contents 1 Lb. 12 Oz. Tomato Puree [or "Contents 6½ Ozs. Avoir. Tomato Paste"] Packed For La Sierra Heights Canning Co., Inc., Buena Park, California," or "Mountain Beauty Contents 6 Ozs. Avoir. Tomato Paste."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of decomposed substances.

DISPOSITION: Between December 5 and 14, 1944. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

7849. Adulteration of tomato puree. U. S. v. 267 Cases of Tomato Puree. Default decree of condemnation and destruction. (F. D. C. No. 15154. Sample No. 13401-H.)

LIBEL FILED: January 24, 1945, Southern District of Ohio.

ALLEGED SHIPMENT: On or about October 13, 1944, by D. E. Foote and Co., Inc., Baltimore, Md.

PRODUCT: 267 cases, each containing 6 6-pound, 8-ounce cans, of tomato puree at Cincinnati, Ohio.

LABEL, IN PART: "Mountain Pride Tomato Puree * * * Distributed by Mount Airy Sales Co. Baltimore, Maryland."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: February 21, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7850. Adulteration of tomato puree. U. S. v. 998 Cases of Tomato Puree. Decree of condemnation. Portion of product ordered delivered to a Federal institution, for use as animal food; remainder ordered released. (F. D. C. No. 7932. Sample No. 1403-F.)

LIBEL FILED: July 16, 1942, Western District of Michigan; amended July 10, 1944.

ALLEGED SHIPMENT: On or about January 10, 1942, by the Ladoga Canning Co., from Lebanon, Ind.

PRODUCT: 998 cases, each containing 6 No. 10 cans, of tomato puree at Fremont, Mich.

LABEL, IN PART: (Cans) "Ladoga Brand Tomato Puree."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of

decomposed tomato material, as evidenced by mold, rot fragments, fly eggs, and fly maggots.

DISPOSITION: August 1, 1942. The Ladoga Canning Co., claimant, filed a motion to quash on the grounds that the fourth amendment to the Constitution of the United States had been violated, and subsequently amended the motion to include a claim that there was no admiralty jurisdiction in the matter. The district court, on September 21, 1942, handed down the following memorandum opinion denying the motion:

FRED M. RAYMOND, *District Judge*: "It being the view of the court that proceedings for condemnation under Section 304 (a) of the Federal Food, Drug and Cosmetic Act (21 U. S. C. A., Section 334) are essentially civil and are intended for protection of the lives and health of the public, and that they are not designed to obtain information for use in evidence against the owner and that therefore the Fourth Amendment to the Constitution is inapplicable (see *United States v. Eighteen Cases of Tuna Fish*, 5 F. (2d) 979; *United States v. B. & M. External Remedy*, 36 F. (2d) 53; *Boyd v. United States*, 116 U. S. 616; *North American Cold Storage Co. v. City of Chicago*, 211 U. S. 306; 15 Ann. Cas. 281; 56 C. J. 1166; 25 C. J. 1173; 22 Am. Jur., Food, Section 81), an order may be entered denying the motion of Ladoga Canning Company to quash warrant and seizure and for return of goods."

On October 5, 1942, the claimant filed exceptions to the libel, which were dismissed by the court on January 14, 1943, and subsequently, on or about January 26, 1943, the claimant filed an answer denying that the product was adulterated and submitted certain interrogatories. The claimant's motion for an order compelling answers to the interrogatories was denied in the following opinion of the court, dated April 21, 1943:

FRED M. RAYMOND, *District Judge*: "In proceedings in admiralty for seizure and destruction of alleged adulterated tomato puree introduced into interstate commerce, claimant has filed a motion for an order compelling answers to interrogatories. These interrogatories seek disclosure of the following information: (1) the extent to which the seized goods consisted of decomposed tomato products at time of shipment; (2) the number of cans taken out of shipment and their contents examined, with the can marks of each can; (3) the number of cans found to contain decomposed products, with the can mark of each can; (4) the nature of the test or examination made of the contents of each can; (5) the result of the test or examination made of the contents of each can with the can mark of each such can.

"The issue before the court under the statute is whether or not the food was adulterated when introduced into or while in interstate commerce. For this reason, the first interrogatory, as to whether the goods consisted of decomposed products at the time of shipment is wholly immaterial.

"The remaining interrogatories, in substance, seek to obtain from the libellant evidence upon which it will rely to support its own allegations, and are objectionable for this reason. In the case of *Coronet Phosphate Co. v. United States Shipping Co.*, 260 F. 846, Judge Learned Hand said (Page 849):

* * * Interrogatories in the admiralty serve two purposes, to amplify the pleadings of the party interrogated, and to procure evidence in support of the libel or defense of the party interrogating. *Bock v. Int. Nav. Co.* (D. C.) 124 Fed. 711; *The Baker Palmer* (D. C.) 172 Fed. 154. They should not, however, be used merely to fish into the evidence which the party interrogated may produce in support of his own allegations. This limitation upon discovery has remained even in the most modern rules of procedure. A party is of course entitled to know whether his opponent admits the truth of his own allegations, and how far, so as to avoid unnecessary preparation for trial. He is not entitled to know what evidence his adversary will produce to prove the adversary's allegations, and what evidence he must himself produce to overcome the case so made. The result will, of course, be, as it has been in the past, that he must go to trial somewhat in the dark as to what he must meet. The pleadings are intended to advise him of that, and interrogatories are proper to reduce those allegations to very specific form. They should be encouraged for that purpose, but so far as they call upon the pleader to go further, and give, not only the details of his allegations, but the evidence by which he means to prove them, they are liable to abuse. If there develop on the trial a case of genuine surprise, the court, especially where there is no jury, has ample power to protect the party surprised.

"While it has been held that admiralty rule No. 31 as to interrogatories to parties should be as broadly construed as federal rule 33 touching disclosure of an adversary's case (see *The Exermont*, 1 F. R. D. 574; *Citro Chemical Co. v. Bank Line Limited*, 1 F. R. D. 638), the better rule is that interrogatories may not be used to examine the opposite party as to evidence upon which the other will rely to support his own case (*Jensen v. Sinclair Nav. Co.*, 58 F. (2d) 407;

Cargo Carriers v. The Prospect, 2 F. R. D. 519; The Arthur Conners, 35 F. Supp. 775).

"An order will be entered denying the motion filed February 26, 1943."

The claimant having withdrawn its answer, the court, on November 18, 1944, entered a judgment of condemnation. On November 20, 1944, it was ordered that certain portions of the product identified by certain code numbers be destroyed by delivery to a Federal institution, for use as animal food, and that the remainder be released to the claimant.

7851. Adulteration and misbranding of tomato sauce. U. S. v. 7,414 Cases of Tomato Sauce. Decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. Nos. 13526 to 13566, incl. Sample No. 27337-F.)

LIBEL FILED: September 6, 1944, District of Puerto Rico.

ALLEGED SHIPMENT: On or about April 8, 1944, by A. Glorioso, New Orleans, La.

PRODUCT: 7,414 cases, each containing 72 (or 48) 7½-ounce cans, of tomato sauce at San Juan, Puerta de Tierra, Rio Piedras, and Santurce, P. R.

LABEL, IN PART: (Cans) "Eagle Brand Italian Style Tomato Sauce."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), an unconcentrated tomato product had been substituted in whole or in part for tomato sauce, an article which is understood by the trade and consuming public to be a concentrated tomato product.

Misbranding, Section 403 (a), the name "Tomato Sauce" was false and misleading as applied to an unconcentrated tomato product.

DISPOSITION: January 12, 1945. A. Trigo & Co., Sucrs., San Juan, P. R., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of an officer designated by the Administrator of the Federal Security Agency.

NUTS AND NUT PRODUCTS

7852. Adulteration of shelled almonds and almonds in shell. U. S. v. 3 Cases of Shelled Almonds and 25 Bags of Almonds in Shell. Consent decree of condemnation. Products ordered released under bond. (F. D. C. Nos. 14749, 14750. Sample Nos. 89976-F, 98681-F.)

LIBELS FILED: December 8, 1944, Eastern District of Illinois.

ALLEGED SHIPMENT: On or about November 30 and December 6, 1943, by the William A. Camp Co., Inc., New York, N. Y.

PRODUCT: 3 28-pound cases of shelled almonds at O'Fallon, Ill., and 25 110-pound bags of almonds in shell at National Stock Yards, Ill.

LABEL, IN PART: (Shelled almonds) "Rose Product of Spain."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insect-damaged almonds, and (shelled almonds) insect excreta and insect fragments, and (almonds in shell) shriveled almonds.

DISPOSITION: December 21, 1944. L. Allen & Sons, claimant, having admitted the allegations of the libels, and the cases having been consolidated, judgment of condemnation was entered and the products were ordered released under bond to be cleaned and sorted, in order to eliminate all filth, under the supervision of the Food and Drug Administration.

7853. Adulteration of cashew kernels. U. S. v. 26 Cans of Cashew Kernels. Default decree of condemnation and destruction. (F. D. C. No. 14483. Sample No. 68383-F.)

LIBEL FILED: November 20, 1944, Northern District of Ohio.

ALLEGED SHIPMENT: On or about April 12, 1944, by Wood and Selick, Inc., from Chicago, Ill.

PRODUCT: 26 25-pound cans of cashew kernels at Cleveland, Ohio.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-infested cashew kernels.

DISPOSITION: December 29, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7854. Adulteration of shelled cashew nuts. U. S. v. 24 Cases of Shelled Cashew Nuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14828. Sample Nos. 90572-F, 90575-F.)

LIBEL FILED: December 21, 1944, Southern District of Ohio.

ALLEGED SHIPMENT: On or about October 23, 1944, by the William A. Camp Co., Inc., New York, N. Y.

PRODUCT: 24 cases, each containing 2 25-pound cans, of shelled cashew nuts at Cincinnati, Ohio.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and insect-infested and dirty nuts.

DISPOSITION: January 29, 1945. The William A. Camp Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

7855. Adulteration of desiccated coconut. U. S. v. 9 Bags of Desiccated Coconut. Consent decree of condemnation. Product ordered delivered to the National Zoological Park. (F. D. C. No. 14339. Sample No. 92829-F.)

LIBEL FILED: November 1, 1944, District of Columbia.

ALLEGED SHIPMENT: On or about May 24, 1944, by the Ferris-Noeth-Stern Co., division of Wood and Selick, from Baltimore, Md.

PRODUCT: 9 bags, each containing 100 pounds, of desiccated coconut at Washington, D. C.

LABEL, IN PART: "Vavasseur's Red V * * * Desiccated Coconut Manufactured by Florida Sales Corp. Miami, Florida Prepared Coconut."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), sucrose had been substituted in part for coconut, which the article was represented to be.

DISPOSITION: April 5, 1945. The sole intervener having withdrawn its claim and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered delivered to the National Zoological Park, for use as animal feed.

7856. Adulteration of filberts in shell. U. S. v. 709 Bags of Filberts in Shell. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15185. Sample No. 29024-H.)

LIBEL FILED: February 2, 1945, Northern District of California.

ALLEGED SHIPMENT: On or about October 18, 1944, by the Oregon Nut Shellers, from Hillsboro, Ore.

PRODUCT: 709 bags, containing 47,664 pounds, of filberts in shell at San Francisco, Calif.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms, and it was otherwise unfit for food by reason of the presence of empty shells.

DISPOSITION: February 13, 1945. The L. DeMartini Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into conformity with the law, under the supervision of the Food and Drug Administration.

7857. Adulteration of filberts. U. S. v. 44 Bags of Filberts. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 14799. Sample No. 97708-F.)

LIBEL FILED: December 19, 1944, District of Minnesota.

ALLEGED SHIPMENT: On or about March 10, 1944, from San Francisco, Calif.

PRODUCT: 44 100-pound bags of filberts at Minneapolis, Minn., in the possession of the Kedney Warehouse. This product had been stored, after shipment, under insanitary conditions. The bags were rodent-gnawed, and rodent pellets were observed on them. Examination showed that the product contained rodent hairs, rodent excreta, and rodent-gnawed kernels.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 6, 1945. The Garrott Candy Co., St. Paul, Minn., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

7858. Adulteration of shelled runner peanuts. U. S. v. 150 Bags of Shelled Runner Peanuts. Tried to the court. Verdict for the Government. Judgment of condemnation. Product ordered released under bond. (F. D. C. No. 12319. Sample No. 79364-F.)

LIBEL FILED: May 10, 1944, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about February 16, 1944, by Henderson & Helms, Inc., from Brundidge, Ala.

PRODUCT: 150 bags, each containing 110 pounds, of shelled runner peanuts at Norfolk, Va.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of dirty, decomposed, and moldy peanuts.

DISPOSITION: The Old Dominion Peanut Corporation, claimant, having filed an answer denying that the product was adulterated, and averring that it was not a food within the contemplation of the law, the matter was tried before the court on September 14, 1944. At the conclusion of the trial, on September 19, 1944, the court found for the Government and, on November 20, 1944, a decree was entered condemning the product and ordering its release under bond to the claimant, to be brought into compliance with the law under the supervision of the Food and Drug Administration. The product was crushed into oil for use of the oil and the pressed cake for non-food purposes.

7859. Adulteration of peanuts. U. S. v. 100 Sacks of Peanuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14125. Sample No. 72980-F.)

LIBEL FILED: October 25, 1944, Northern District of California.

ALLEGED SHIPMENT: On or about March 31, 1944, by the Suffolk Peanut Co., from Suffolk, Va.

PRODUCT: 100 125-pound sacks of peanuts at San Francisco, Calif.

LABEL, IN PART: "No. 1 Virginia Supeco Brand Shelled Peanuts."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of insects, worms, and moldy and decomposed peanuts.

DISPOSITION: December 12, 1944. E. F. Lane & Son, San Francisco, Calif., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was denatured and pressed and the oil disposed of as soap grease and the cake as animal feed.

7860. Adulteration of shelled peanuts. U. S. v. 38 Bags of Shelled Peanuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14934. Sample No. 96964-F.)

LIBEL FILED: January 3, 1944, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about July 5, 1944, by the Hartford Peanut Co., from Hartford, Ala.

PRODUCT: 38 120-pound bags of shelled peanuts at New Orleans, La.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-infested, dirty, and decomposed peanuts.

DISPOSITION: February 5, 1945. The Hartford Peanut Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for denaturing for use as animal feed or for rendering into oils for use in the manufacture of soap, under the supervision of the Food and Drug Administration.

7861. Adulteration of peanuts. U. S. v. 43 Bags of Peanuts. Default decree of condemnation and destruction. (F. D. C. No. 14989. Sample No. 75999-F.)

LIBEL FILED: January 15, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 7 and 15, 1943, from Cleveland, Ohio.

PRODUCT: 43 bags, each containing approximately 120 pounds, of peanuts at Pittsburgh, Pa., in possession of the Hardie Brothers Company. The article was stored under insanitary conditions after shipment. Rodent pellets and urine stains were observed on the bags. Examination showed that the article contained rodent hairs, rodent hair fragments, and insect-infested peanuts.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7862. Adulteration of peanuts in shell. U. S. v. 23 Bags of Peanuts. Default decree of condemnation. Product ordered delivered to a Federal institution, for use as animal feed. (F. D. C. No. 14399. Sample No. 83026-F.)

LIBEL FILED: On or about November 9, 1944, District of Connecticut.

ALLEGED SHIPMENT: On or about April 14, 1944, by the Parker Peanut Co., from Suffolk, Va.

PRODUCT: 23 bags, each containing approximately 88 pounds, of peanuts at Bridgeport, Conn.

LABEL, IN PART: (Bags) "Parker Packt Jumbo Hand Picked Virginia Peanuts."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-infested and rodent-gnawed peanuts.

DISPOSITION: On or about December 27, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal institution, for use as hog feed.

7863. Adulteration of shelled peanuts. U. S. v. 160 Bags and 37 Bags of Spanish Shelled Peanuts and 12 Bags of Virginia Shelled Peanuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 14697 to 14699, incl. Sample Nos. 67563-F, 68459-F, 68460-F.)

LIBELS FILED: December 2, 1944, Southern District of Ohio.

ALLEGED SHIPMENT: Between the approximate dates of November 11 and December 1, 1943, from Ashburn, Ga., Edenton, N. C., and Leesburg, Ga.

PRODUCT: 197 bags, each containing approximately 125 pounds, and 12 bags, each containing approximately 115 pounds, of peanuts at Cincinnati, Ohio, in the possession of Cincinnati Terminal Warehouses, Inc. This product had been stored under insanitary conditions after shipment. The bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the product contained rodent hair fragments and urine, and that some portions also contained rodent excreta fragments.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 30, 1944. Cincinnati Terminal Warehouses, Inc., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be sorted and brought into compliance with the law, under the supervision of the Food and Drug Administration, the unfit portion to be converted into animal feed.

7864. Adulteration of peanuts. U. S. v. 12 Cartons of Peanuts. Default decree of condemnation and destruction. (F. D. C. No. 14036. Sample No. 63924-F.)

LIBEL FILED: October 16, 1944, Southern District of Florida.

ALLEGED SHIPMENT: On or about August 11, 1944, by the Braun Importing Co., Inc., from New York, N. Y.

PRODUCT: 12 30-pound cartons of peanuts at Jacksonville, Fla.

LABEL, IN PART: "Marco Polo Sliced Peanuts."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and insect fragments.

DISPOSITION: December 12, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7865. Adulteration of peanuts. U. S. v. 70 Bags of Peanuts. Decrees of condemnation. Portion of product ordered released under bond; remainder ordered sold. (F. D. C. Nos. 14505, 14506. Sample Nos. 89698-F, 89699-F.)

LIBEL FILED: November 21, 1944, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about September 26, 1944, by the Birdsong Storage Co., Suffolk, Va.

PRODUCT: 70 85-pound bags of peanuts, at St. Louis, Mo.

LABEL, IN PART: "Birdsong's Star Brand Virginia Hand Picked Jumbo Peanuts."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of insect-damaged and decomposed peanuts.

DISPOSITION: December 21, 1944. The Podolsky Brothers Wholesale Grocers, St. Louis, Mo., having appeared as claimant for a portion of the product and having admitted the allegations of the libel, judgment of condemnation was entered against that portion and it was ordered released under bond to be brought into compliance with the law or destroyed, under the supervision of the Food and Drug Administration. On December 27, 1944, no claimant having appeared for the remainder of the product, judgment of condemnation was entered and the product was ordered sold to the highest bidder, for use in compliance with the law.

7866. Adulteration of peanut butter. U. S. v. Kimbell Milling Co. (Kimbell Food Products Co.). Plea of guilty. Fine, \$500 on count 1; sentence suspended on count 2, and defendant placed on probation for 6 months. (F. D. C. No. 14220. Sample Nos. 43894-F, 66759-F.)

INFORMATION FILED: December 19, 1944, Northern District of Texas, against the Kimbell Milling Co., a corporation trading as the Kimbell Food Products Co., Fort Worth, Tex.

ALLEGED SHIPMENT: On or about December 15, 1943, and February 22, 1944, from the State of Texas into the States of Oklahoma and Kansas.

LABEL, IN PART: "K B * * * Peanut Butter [or "Peanut Krackel"]."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rat or mouse excreta fragments and hairs in one lot, and sand, dirt, stones, hard seeds, and hard pieces of stem in the remaining lot; and, Section 402 (a) (4), one lot had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 9, 1945. A plea of guilty having been entered on behalf of the defendant, a fine of \$500 was imposed on count 1. Imposition of sentence was suspended on count 2, and the defendant was placed on probation for 6 months.

7867. Adulteration of peanut butter. U. S. v. 8 Cases of Peanut Butter. Default decree of condemnation and destruction. (F. D. C. No. 14000. Sample No. 79672-F.)

LIBEL FILED: October 30, 1944, Eastern District of North Carolina.

ALLEGED SHIPMENT: On or about July 15, 1944, by Southgate Foods, from Norfolk, Va.

PRODUCT: 8 cases, each containing 12 jars, of peanut butter at Washington, N. C.

LABEL, IN PART: "Lynnhaven Brand Peanut Butter."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of dirt.

DISPOSITION: January 26, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7868. Adulteration of peanut butter. U. S. v. 40 Cases of Peanut Butter. Default decree of condemnation and destruction. (F. D. C. No. 14345. Sample No. 63756-F.)

LIBEL FILED: November 1, 1944, Western District of North Carolina.

ALLEGED SHIPMENT: On or about April 11, 1944, by Southgate Foods, from Norfolk, Va.

PRODUCT: 40 cases, each containing 24 1-pound jars, of peanut butter at Gastonia, N. C.

LABEL, IN PART: (Jar) "Lynnhaven Brand Peanut Butter."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of dirt.

DISPOSITION: December 6, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7869. Adulteration and misbranding of peanut butter. U. S. v. 25 Cases and 49 Cases of Peanut Butter. Decrees of condemnation and forfeiture. Portion of product ordered released under bond; remainder ordered delivered to a charitable institution, for use as animal feed. (F. D. C. Nos. 14132, 14746. Sample Nos. 62150-F, 99110-F.)

LIBELS FILED: October 25 and December 8, 1944, Western District of Texas and Eastern District of Illinois.

ALLEGED SHIPMENT: On or about August 28, 1943, and October 23, 1944, by the Robertson Peanut Co., from Clayton, Ala.

PRODUCT: 25 cases and 49 cases, each containing 24 1-pound jars, of peanut butter at San Antonio, Tex., and Cairo, Ill., respectively.

LABEL, IN PART: "Delicious Brand Peanut Butter."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), (San Antonio lot only) the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, and insect fragments.

Misbranding (Cairo lot only), Section 403 (a), the statement "Net Weight One Pound" was false and misleading as applied to the product, which was short-weight; and, Section 403 (e) (2), the product was food in package form and its label failed to bear an accurate statement of the quantity of the contents since the jars contained less than "One Pound," the weight declared.

DISPOSITION: December 30, 1944. The McKnight-Keaton Grocery Co., Cairo, Ill., claimant for the lot at Cairo, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration. On February 21, 1945, no claimant having appeared for the lot at San Antonio, judgment of forfeiture was entered and the product was ordered delivered to a charitable institution, for use as animal feed after it had been denatured.

7870. Misbranding of peanut butter. U. S. v. 12 Cases of Peanut Butter. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 12771. Sample No. 60651-F.)

LIBEL FILED: June 26, 1944, District of Nevada.

ALLEGED SHIPMENT: On or about March 3, 1944, by the California Peanut Co., from Oakland, Calif.

PRODUCT: 12 cases, each containing 24 jars, of peanut butter at Reno, Nev.

LABEL, IN PART: (Jars) "C. P. C. Peanut Butter * * * 1 Pound."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the statement "1 Pound" was false and misleading as applied to the article, which was short-weight; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: August 12, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

7871. Adulteration of shelled pecan pieces. U. S. v. 8 Cartons of Shelled Pecan Pieces. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14756. Sample No. 83550-F.)

LIBEL FILED: December 13, 1944, Western District of Texas.

ALLEGED SHIPMENT: On or about November 27, 1944, by Van De Kamps Bakeries, from Seattle, Wash.

PRODUCT: 8 cartons of shelled pecan pieces at El Paso, Tex.

LABEL, IN PART: "L-Paso Brand Shelled Pecans * * * Pecan Pieces."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy pecan pieces.

DISPOSITION: February 5, 1945. Azar Brothers, El Paso, Tex., claimant, having admitted that the product was adulterated, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law.

7872. Adulteration of shelled pecans. U. S. v. 17 Cartons of Shelled Pecans. Default decree of condemnation and destruction. (F. D. C. No. 14902. Sample Nos. 63814-F, 63815-F.)

LIBEL FILED: January 8, 1945, Southern District of Florida.

ALLEGED SHIPMENT: On or about November 3 and 10, 1944, by Princess Pecans, Inc., from Camilla, Ga.

PRODUCT: 17 cartons, each containing 50 pounds, of shelled pecans, at Largo, Fla.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, insect fragments, and insect excreta.

DISPOSITION: February 6, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7873. Adulteration of pecan meats. U. S. v. 272 Cases of Pecan Meats. Decree ordering that the product be released under bond. (F. D. C. No. 14895. Sample No. 63787-F.)

LIBEL FILED: January 4, 1945, Western District of North Carolina.

ALLEGED SHIPMENT: On or about November 11, 1944, by the Consolidated Pecan Sales Co., Inc., from Albany, Ga.

PRODUCT: 87 30-pound cases and 185 25-pound cases of pecan meats at Charlotte, N. C.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of *Escherichia coli*.

DISPOSITION: February 6, 1945. The Consolidated Pecan Sales Co., Inc., claimant, having admitted the allegations of the libel, judgment was entered ordering that the product be released under bond, conditioned that it be cleaned and pasteurized under the supervision of the Food and Drug Administration.

7874. Misbranding of shelled pecans. U. S. v. 141 Cups and 94 Cups of Shelled Pecans. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14669. Sample Nos. 79882-F, 79883-F.)

LIBEL FILED: December 22, 1944, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about November 11, 1944, by the Calhoun Pecan Co., from St. Matthews, S. C.

PRODUCT: 141 14-ounce cups and 94 7-ounce cups of shelled pecans at Richmond, Va. Analysis showed that the article was short-weight.

LABEL, IN PART: "Shelled Pecans New Crop Always Fresh Calhoun Pecan Co. St. Matthews, S. C. 14 Oz. Net Weight [or "7 Oz. When Packed"]."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: February 13, 1945. The Calhoun Pecan Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be repacked under the supervision of the Food and Drug Administration.

7875. Misbranding of pecans. U. S. v. 10 Cases of Pecan Halves. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 14901. Sample No. 63959-F.)

LIBEL FILED: On or about January 8, 1945, Southern District of Florida.

ALLEGED SHIPMENT: On or about December 12, 1944, by the Southland Pecan Co., Inc., from Columbus, Ga.

PRODUCT: 10 cases, each containing 12 display cards bearing 1 dozen cellophane bags, of pecan halves at Jacksonville, Fla. Examination showed that the article was short-weight.

LABEL, IN PART: (Bags) "Net Wt. 1½ Oz. Gold Medal Pecans."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: February 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered by the United States marshal to a charitable institution.

OILS AND FATS

7876. Adulteration and misbranding of oil. U. S. v. Catania Importing Co., Inc., and Domenic A. Previte. Plea of not guilty. Trial before court and jury. Verdict of guilty. Fine of \$1,000 imposed upon the corporation; individual fined \$1,000 and sentenced to 3 months' imprisonment. (F. D. C. No. 14214. Sample Nos. 49652-F, 52216-F.)

INFORMATION FILED: December 27, 1944, District of Massachusetts, against the Catania Importing Co., Inc., Boston, Mass., and Domenic A. Previte, treasurer and manager of the corporation.

ALLEGED SHIPMENT: On or about January 10 and 28, and February 15, 1944, from the State of Massachusetts into the States of New York, Maine, and Rhode Island.

LABEL, IN PART: "La-Spagnola Brand Oil 85% Choice Cottonseed Salad Oil, 15% Virgin Olive Oil Vegetable Color Added."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), a substance consisting essentially of cottonseed oil and containing little or no olive oil had been substituted for a mixture consisting of 85 percent choice cottonseed salad oil and 15 percent virgin olive oil, which the product was represented to be; and, Section 402 (b) (1), a valuable constituent, olive oil, had been in whole or in part omitted from the product.

Misbranding, Section 403 (a), the label statement "85% Choice Cottonseed Salad Oil, 15% Virgin Olive Oil," was false and misleading.

DISPOSITION: May 15, 1945. Pleas of not guilty having been entered on behalf of the defendants, the case came on for trial before a jury. After the taking of testimony had been concluded, the jury, after due deliberation, returned a verdict of guilty, and the court imposed a fine of \$1,000 upon the corporation and a fine of \$1,000 and a jail sentence of 3 months upon the individual defendant.

7877. Adulteration and misbranding of olive oil. U. S. v. Pasquale L. Cerosuolo (Patsy Cerosuolo or Patsy Cherry). Plea of guilty. Sentence suspended and defendant placed on probation for 6 months. (F. D. C. No. 9660. Sample Nos. 17416-F, 17417-F.)

INFORMATION FILED: February 23, 1944, Southern District of New York, against Pasquale L. Cerosuolo, also known as Patsy Cerosuolo and Patsy Cherry, New York, N. Y.

ALLEGED SHIPMENT: On or about October 17, 1942, from the State of New York into the State of Connecticut.

LABEL, IN PART: "Roberta Brand Pure Olive Oil Imported From Lucca Toscana Italy," or "Puglia Brand Superfine Pure Olive Oil Imported From Lucca-Italy."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), an oil other than olive oil had been substituted in whole or in part for olive oil, which the article was represented to be; Section 402 (b) (3), inferiority had been concealed by the addition of artificial flavor and color; and, Section 402 (b) (4), artificial flavor and color had been added to the article or had been mixed or packed with it so as to make it appear better or of greater value than it was.

Misbranding, Section 403 (a), the statements on the label of a portion of the product, (in English and Italian) "Pure Olive Oil Imported From Lucca Toscana Italy," and (in English, Italian, German, French, and Spanish) "This Olive Oil is Guaranteed to be absolutely pure under chemical analysis," and the designs of olive branches and gold medals on the label, and the statements on the label of the remainder of the product, "Imported Pure Olive Oil," and "Superfine Pure Olive Oil Imported From Lucca Italy * * * [English and Italian] This olive oil is guaranteed to be absolutely pure under any chemical analysis Recommended for table use and medicinal purposes," and the designs of olive branches on the label, were false and misleading since they represented and suggested that the article consisted of pure olive oil imported from Italy, whereas it consisted of an artificially colored and artificially flavored imitation olive oil that had not been imported from Italy; Section 403 (b), the product was offered for sale under the name of another food, olive oil; Section 403 (c), it was an imitation of another food and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; Section 403 (e) (1), it failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (f), the words, statements, or other information required by or under authority of the law to appear on the label were not

prominently placed thereon and in such terms as to render them likely to be read or understood by the ordinary individual under customary conditions of purchase and use, since the label of a portion of the product contained representations in foreign languages, Italian, German, French, and Spanish, and the label of the remainder of the product contained representations in a foreign language, Italian, and the labels did not bear in the foreign languages, as required by the regulations, the name and place of business of the manufacturer, packer, or distributor, an accurate statement of the quantity of the contents, and the common or usual name of each ingredient; Section 403 (i) (2), the product was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient; and, Section 403 (k), it contained artificial flavoring and artificial coloring and failed to bear labeling stating that fact.

DISPOSITION: March 23, 1944. A plea of guilty having been entered, imposition of sentence was suspended and the defendant was placed on probation for 6 months.

7878. Adulteration and misbranding of edible oil. U. S. v. 45 Cans of Edible Oil. Default decree of condemnation. Product ordered delivered to a government hospital. (F. D. C. No. 14610. Sample Nos. 94202-F, 94203-F.)

LIBEL FILED: November 29, 1944, Eastern District of New York.

ALLEGED SHIPMENT: On or about October 2, 1944, by the Caruso Products Distributing Co., from Newark, N. J.

PRODUCT: 45 1-gallon cans of edible oil at Brooklyn, N. Y. Analysis showed that the article consisted essentially of oil of the nature of soybean, with some peanut oil, and that it contained little or no olive oil. The article was short-volume.

LABEL, IN PART: (Cans) "Signora Brand Pure Oil Corn and Olive Oil One Gallon Net Packed for J. Guarino Newark, N. J."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), a substance consisting essentially of oil of the nature of soybean, with some peanut oil, and containing little or no olive oil, had been substituted in whole or in part for "Corn and Olive Oil," which the article was represented to be.

Misbranding, Section 403 (a), the label statement "Corn and Olive Oil" was false and misleading; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: January 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a government hospital, after withdrawal of samples by the Food and Drug Administration.

7879. Misbranding of salad oil. U. S. v. 825 Cases of Salad Oil. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 12396. Sample Nos. 60810-F, 61601-F, 61603-F.)

LIBEL FILED: May 16, 1944, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about March 24, 1944, by the Corn Products Refining Co., from Argo, Ill.

PRODUCT: 825 cases, each containing 24 bottles, of salad oil at New Orleans, La.

LABEL, IN PART: (Bottles) "Mazola Salad Oil One Pint Refined Corn Oil."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the statement "One Pint" was false and misleading as applied to a product that was short of volume; and, Section 403 (e) (2), the product was food in package form and it failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: December 30, 1944. The Corn Products Refining Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of an inspector of the Federal Security Agency.

POULTRY

7880. Adulteration and misbranding of frozen poultry. U. S. v. Edward Aaron & Co. Plea of guilty. Fine, \$210 and costs. (F. D. C. No. 12600. Sample No. 43347-F.)

INFORMATION FILED: November 3, 1944, Western District of Missouri, against Edward Aaron & Co., a partnership, Kansas City, Mo.

ALLEGED SHIPMENT: On or about August 23, 1943, from the State of Missouri into the State of Kansas.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed poultry.

Misbranding, Section 403 (e) (1), the product was in package form and it failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), its label bore no statement of the quantity of the contents; and, Section 403 (i) (1), it failed to bear a label containing the common or usual name of the food.

DISPOSITION: November 27, 1944. A plea of guilty having been entered by the defendant, a fine of \$200 on the adulteration count and \$10 on the misbranding count, together with costs, was imposed.

7881. Adulteration of dressed poultry. U. S. v. Stork Brothers. Plea of guilty. Fine, \$150. (F. D. C. No. 12515. Sample Nos. 46537-F, 46538-F.)

INFORMATION FILED: November 30, 1944, District of Minnesota, against Stork Bros., a partnership, New Ulm, Minn.

ALLEGED SHIPMENT: Between the approximate dates of October 14 and November 18, 1943, from the State of Minnesota into the State of Illinois.

LABEL, IN PART: "Stork Bros. New Ulm Poultry."

VIOLATION CHARGED: Adulteration, Section 402 (a) (5), the product was in whole or in part the product of diseased animals, by reason of the presence, in one of the shipments, of poultry that was egg-bound, abscessed, and contained pus, and, in the other shipment, of poultry that was affected with cystic tumors, tuberculosis, liver degeneration, or other disease conditions; and it was in whole or in part the product of poultry that had died otherwise than by slaughter.

DISPOSITION: November 30, 1944. A plea of guilty having been entered, the defendant was fined \$75 on each count, a total fine of \$150.

7882. Adulteration of dressed poultry. U. S. v. 24 Boxes of Dressed Poultry. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15035. Sample No. 86578-F.)

LIBEL FILED: On or about December 7, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: On November 26, 1944, by Mrs. George D. Tracy Poultry & Eggs, from Tracy, Minn.

PRODUCT: 24 boxes, each containing approximately 50 to 60 pounds, of dressed poultry, at Chicago, Ill.

LABEL, IN PART: (Tracing) "Fowl Class C [or other letter] 78070-2 Nov. 27 1944 60."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal or of an animal that had died otherwise than by slaughter.

DISPOSITION: January 17, 1945. Lesserman and Keller, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for salvaging under the supervision of the Food and Drug Administration.

7883. Adulteration of dressed poultry. U. S. v. 141 Boxes of Dressed Poultry. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15166. Sample No. 13001-H.)

LIBEL FILED: January 26, 1945, Southern District of Ohio.

ALLEGED SHIPMENT: On or about January 11, 1945, by W. W. Durham, from Louisville, Ky.

PRODUCT: 141 boxes of dressed poultry, at Cincinnati, Ohio.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of decomposed birds; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

DISPOSITION: January 30, 1945. W. W. Durham, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product

was ordered released under bond for segregation and destruction of the unfit portion, under the supervision of the Food and Drug Administration.

7884. Adulteration of frozen, cooked turkey skin. U. S. v. 289 Cartons of Frozen Cooked Turkey Skins. Default decree of condemnation. Product ordered delivered for use in the production of fertilizer tankage. (F. D. C. No. 15021. Sample No. 31401-H.)

LIBEL FILED: January 23, 1945, Southern District of California.

ALLEGED SHIPMENT: On or about March 16, 1943, by the Omaha Cold Storage Co., Omaha, Nebr.

PRODUCT: 289 25-pound cartons of frozen, cooked turkey skins, at Los Angeles, Calif. Examination showed that the product contained rancid, decomposed turkey skin.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance or was otherwise unfit for food.

DISPOSITION: February 15, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered denatured and used in the production of fertilizer tankage.

SPICES, FLAVORS, AND CONDIMENTS

7885. Adulteration of chili powder. U. S. v. 3 Barrels of Chili Powder. Default decree of condemnation and destruction. (F. D. C. No. 15138. Sample No. 73899-F.)

LIBEL FILED: February 3, 1944, Southern District of New York.

ALLEGED SHIPMENT: On or about November 3, 1944, by the C. B. Gentry Co., Los Angeles, Calif.

PRODUCT: 3 230-pound barrels of chili powder at New York, N. Y.

LABEL, IN PART: (Barrels) "Gentry's cc Mexican Chili Powder."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of insect fragments and mold.

DISPOSITION: March 3, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7886. Adulteration of chili powder. U. S. v. 11 Barrels of Chili Powder. Default decree of condemnation and destruction. (F. D. C. No. 14184. Sample No. 73859-F.)

LIBEL FILED: November 3, 1944, Western District of Texas.

ALLEGED SHIPMENT: On or about September 15, 1944, by the C. B. Gentry Co., Los Angeles, Calif.

PRODUCT: 11 230-pound barrels of chili powder at Waco, Tex.

LABEL, IN PART: "Gentry's CC Mexican Chili Powder."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments.

DISPOSITION: February 27, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7887. Adulteration of chili powder, chili pepper, and paprika. U. S. v. James A. Knapp (J. A. Knapp). Plea of guilty. Fine, \$150. (F. D. C. No. 14256. Sample Nos. 43790-F, 43791-F, 53628-F, 54273-F.)

INFORMATION FILED: January 10, 1945, Southern District of California, against James A. Knapp, trading as J. A. Knapp, Garden Grove, Calif.

ALLEGED SHIPMENT: Between the approximate dates of December 29, 1943, and May 27, 1944, from the State of California into the States of Kansas, Ohio, and Texas.

LABEL, IN PART: "Mex. Type Chili Pepper," or "Domestic Paprika."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insect fragments, rodent hairs, rodent hair fragments, a rodent excreta pellet fragment, sand, feather barbules, and a larva; and, Section 402 (a) (4), they had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: January 24, 1945. A plea of guilty having been entered, the defendant was fined \$50 on each count, a total fine of \$150.

7888. Adulteration of ginger root. U. S. v. 89 Boxes of Ginger Root. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15181. Sample No. 26705-H.)

LIBEL FILED: January 31, 1945, District of Colorado.

ALLEGED SHIPMENT: On or about January 13, 1945, by Wright, Mora and Gonzales, from El Paso, Tex.

PRODUCT: 89 50-pound boxes of ginger root, at Denver, Colo.

LABEL, IN PART: "Fresh or Green Ginger Made in Mexico."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: February 6, 1945. H. M. Newhall & Co., San Francisco, Calif., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into conformity with the law, under the supervision of the Food and Drug Administration.

7889. Adulteration and misbranding of oil of lemon. U. S. v. 4 Barrels of Oil of Lemon (and 1 other seizure action against oil of lemon). Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 9962, 10317. Sample Nos. 11304-F, 11326-F to 11328-F, incl.)

LIBEL FILED: May 19 and July 30, 1943, Northern District of California.

ALLEGED SHIPMENT: From on or about August 24, 1942, to April 2, 1943, by Standard Synthetics, Inc., from New York, N. Y.

PRODUCT: 4 55-gallon barrels; 4 drums, each containing 393 pounds (or other weight); 2 drums, each containing 385 pounds; and 13 cases, each containing 2 25-pound cans of oil of lemon, at San Francisco, Calif.

LABEL, IN PART: "Oil Lemon [or "Oil of Lemon"] Baja Brand." All lots, with the exception of the 4 drums, were labeled or invoiced as "U. S. P." oil of lemon.

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), lemon oil distillate or distillates had been substituted in whole or in part for oil of lemon or oil of lemon U. S. P., which the article purported or was represented to be.

Misbranding, portion of the article, Section 403 (a), the label statements, "Oil Lemon" and "Oil Lemon * * * U. S. P.," were false and misleading as applied to a distillate or mixture of distillates of lemon oil and not lemon oil obtained by expression from the peel of lemon; Section 403 (b), the article was offered for sale under the name of another food; Section 403 (c), it was an imitation of another food and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; and, Section 403 (i) (2), it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient.

The article, with the exception of the 4-drum lot, was also alleged to be adulterated under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1267.

DISPOSITION: On February 16, 1944, the libel proceedings having been consolidated and removed to the Eastern District of New York for trial, and Standard Synthetics, Inc., claimant, having admitted the allegations of the libels, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

7890. Adulteration of Pan-American Sauce. U. S. v. 24 Cases and 21 Cases of Pan-American Sauce. Default decrees of condemnation and destruction. (F. D. C. Nos. 14983, 15050. Sample Nos. 67573-F, 13801-H.)

LIBELS FILED: January 10 and 11, 1945, Eastern District of Kentucky and Northern District of Ohio.

ALLEGED SHIPMENT: On or about August 30 and November 27, 1944, by the Finer Foods Packing Corporation, Terre Haute, Ind.

PRODUCT: 24 cases at Cleveland, Ohio, and 21 cases at Somerset, Ky., each case containing 24 14-ounce bottles of Pan-American Sauce.

LABEL, IN PART: "Pan-American Sauce Tomato Pulp, Beets, Carrots, Celery, Cracker Meal."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: February 1 and 6, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

7891. Adulteration of ground paprika. U. S. v. 1 Bag of Ground Paprika. Default decree of condemnation and destruction. (F. D. C. No. 14338. Sample No. 78360-F.)

LIBEL FILED: November 2, 1944, District of New Jersey.

ALLEGED SHIPMENT: On or about August 15, 1944, by the L. H. Parke Co., from Philadelphia, Pa.

PRODUCT: 1 95-pound bag of ground paprika at Trenton, N. J.

LABEL, IN PART: "Paprika Red Carnation Brand."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

DISPOSITION: December 18, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7892. Adulteration and misbranding of compound pepper. U. S. v. 5 Bags of Compound Pepper. Default decree of destruction. (F. D. C. No. 14158. Sample No. 66681-F.)

LIBEL FILED: On or about November 3, 1944, Western District of Missouri.

ALLEGED SHIPMENT: On or about September 26, 1944, by the Euclid Coffee Co., from Cleveland, Ohio.

PRODUCT: 5 100-pound bags of compound pepper at Kansas City, Mo.

LABEL, IN PART: "Compound Pepper Consists of Cottonseed, Wheat, Pure Pepper."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, pepper, had been in part omitted from the article; and, Section 402 (b) (4) cottonseed hulls and ground wheat had been added to and mixed and packed with the article so as to increase its bulk or weight, or to reduce its quality or strength, or make it appear better or of greater value than it was.

Misbranding, Section 403 (b), the product was sold under the name of another article, compound pepper.

DISPOSITION: December 8, 1944. No claimant having appeared, judgment was entered ordering that the product be destroyed.

7893. Adulteration of rubbed sage rosemary. U. S. v. 1 Bag of Rubbed Sage Rosemary. Default decree of condemnation and destruction. (F. D. C. No. 15063. Sample No. 88522-F.)

LIBEL FILED: January 23, 1945, District of Rhode Island.

ALLEGED SHIPMENT: On or about November 26, 1943, by Thomson and Taylor Division, the Warfield Co., from Chicago, Ill.

PRODUCT: 1 98-pound bag of rubbed sage rosemary at Providence, R. I.

LABEL, IN PART: (Bag) "Rubbed Sage Rosemary Swift Co. Providence R. I."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of dirt.

DISPOSITION: March 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7894. Adulteration and misbranding of vanilla extract. U. S. v. 120 Cartons of Vanilla Extract. Default decree of condemnation. Product ordered delivered to a Federal institution. (F. D. C. No. 4893. Sample No. 62308-E.)

LIBEL FILED: June 12, 1941, Northern District of Illinois.

ALLEGED SHIPMENT: On April 24, 1941, by the Plantation Extract Co., from New York, N. Y.

PRODUCT: 120 cartons, each containing 12 $\frac{3}{4}$ -ounce bottles, of vanilla extract at Chicago, Ill.

LABEL, IN PART: (Bottles) "Plantation Pure Vanilla Extract."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), imitation vanilla extract containing resinous substances not found in genuine vanilla extract had been substituted in whole or in part for "Pure Vanilla Extract"; Section

402 (b) (3), inferiority had been concealed through the addition of foreign resins; and, Section 402 (b) (4), foreign resins had been added to the product or mixed or packed with it so as to make it appear better or of greater value than it was.

Misbranding, Section 403 (a), the statement "Pure Vanilla Extract" was false and misleading as applied to imitation vanilla extract containing resinous substances not found in genuine vanilla extract; Section 403 (b), the product was offered for sale under the name of another food; Section 403 (c), it was an imitation of another food and its label did not bear, in type of uniform size and prominence, the word "Imitation" and, immediately thereafter, the name of the food imitated; and, Section 403 (d), its container was so made, formed, and filled as to be misleading since the bottle had tapered sides, was made of thick glass, and was too tall for its capacity.

DISPOSITION: December 28, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal institution.

MISCELLANEOUS FOOD PRODUCTS

7895. Misbranding of Egg-O-Save. U. S. v. George Foster, Inc., and George Foster. Pleas of guilty. Fines, \$100 against corporate defendant and \$500 against individual defendant. (F. D. C. No. 10589. Sample No. 32082-F.)

INFORMATION FILED: December 27, 1943, District of Minnesota, against George Foster, Inc., St. Paul, Minn., and George Foster, president of the corporation.

ALLEGED SHIPMENT: On or about April 20, 1943, from the State of Minnesota into the State of Indiana.

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the label statements, together with the design of a dish of eggs, which represented and suggested that the contents of each package of the article when used instead of eggs in baking and cooking would give the same results as would the use of 1 dozen eggs; that 1 level teaspoonful of the article would give the same results as would 1 egg when used in baking and cooking; that the article would give the same results as the use of eggs in the making of cake, cookies, fried cake, muffins, pies, noodles, salad dressing, ice cream, and various similar products suggested by the abbreviation "Etc.," when used as directed, i. e., "Instead of each egg called for in the recipe use: One level teaspoonful (not heaping or rounded) of Egg-O-Save"; and that the article was guaranteed to comply with the pure food laws and did comply with all pure food laws including the Federal Food, Drug, and Cosmetic Act, were false and misleading since the article would not accomplish the results claimed, was not guaranteed to comply with the pure food laws, and did not comply with the Federal Food, Drug, and Cosmetic Act.

Further misbranding, Section 403 (f), the statement of the quantity of the contents was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use, since the statements "Net Weight 1½ Oz.," and "Net Weight 1½ Ounces," were, in the former instance, in very small, inconspicuous type, and, in the latter instance, on the reverse side of the package.

It was also alleged in the information that another article, Magic Fire Liniment, was misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1299.

DISPOSITION: February 19, 1944. Pleas of guilty having been entered by and on behalf of the defendants, the court imposed a fine of \$100 against the corporation and a fine of \$500 against the individual.

7896. Adulteration and misbranding of food color. U. S. v. 1 Bottle of Food Color. Default decree of condemnation and destruction. (F. D. C. No. 15067. Sample No. 63821-F.)

LIBEL FILED: January 22, 1945, Southern District of Florida.

ALLEGED SHIPMENT: On or about June 8, 1944, by David Kleckner and Son, Inc., from Ozone Park, N. Y.

PRODUCT: 1 bottle containing 5 pounds of food color at Tampa, Fla. Examination showed that the article consisted essentially of chlorophyll, Butter Yellow (Colour Index No. 19), an uncertifiable dye, D & C Green No. 6, a coal-tar color which cannot be certified for use in foods, oil, and flavoring materials.

LABEL, IN PART: "Kleckner Kolor Green Leaf Shade."

VIOLATIONS CHARGED: Adulteration, Section 402 (c), the article bore and contained coal-tar colors, D & C Green No. 6 and Butter Yellow (Colour Index No. 19), which had not been listed for use in food in accordance with the regulations, and were others than ones from batches that had been certified.

Misbranding, Section 403 (i), the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: February 19, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7897. Adulteration and misbranding of food color. U. S. v. 11 Cans of Food Color. Default decree of condemnation and destruction. (F. D. C. No. 15146. Sample No. 78372-F.)

LIBEL FILED: February 6, 1945, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 11, 1944, by the Alpha Aromatic Laboratories, from Brooklyn, N. Y.

PRODUCT: 11 1-pound cans of food color at Philadelphia, Pa. Analysis showed that the article contained not more than 41.4 percent of FD&C Yellow No. 5. The article was represented on its label to be "Lot A6567," whereas the certificate bearing the number A6567 was issued on a mixture of a different composition.

LABEL, IN PART: "Bright Yellow Shade Contains 51% Color Lot A6567."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (4), a substance had been mixed with the article so as to reduce its quality and strength.

Misbranding, Section 403 (a), the statements "Contains 51% Color" and "Lot A6567," were false and misleading; and, Section 403 (i) (2), the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: February 27, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7898. Adulteration of Kernel Paste. U. S. v. Lyons-Magnus, Inc. Plea of nolo contendere. Fine, \$25. (F. D. C. No. 12544. Sample No. 55820-F.)

INFORMATION FILED: July 26, 1944, Northern District of California, against Lyons-Magnus, Inc., San Francisco, Calif.

ALLEGED SHIPMENT: On or about December 6, 1943, from the State of California into the State of Washington.

LABEL, IN PART: "Lyons Magnus California Kernel Paste."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect parts, and rodent hairs; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 4, 1945. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$25 was imposed.

7899. Adulteration of dehydrated noodle soup mix. U. S. v. 15 Cartons of Dehydrated Soup Mix. Default decree of condemnation and destruction. (F. D. C. No. 15062. Sample No. 93659-F.)

LIBEL FILED: January 18, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about December 15, 1944, by the Waples-Platter Co., Greenville, Tex.

PRODUCT: 15 cartons, each containing 48 2½-ounce packages, of dehydrated soup mix at New York, N. Y. Examination showed that the article contained weevils, larvae, and insect fragments.

LABEL, IN PART: (Package) "Lipton's Noodle Soup * * * Made by Continental Foods Inc., Hoboken, N. J. A Member of the Lipton Tea Family."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance.

DISPOSITION: February 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7900. Adulteration of dehydrated soup mix. U. S. v. 19 Cartons and 9 Cartons of Dehydrated Soup Mix. Default decree of condemnation and destruction. (F. D. C. No. 15061. Sample Nos. 93658-F, 6141-H.)

LIBEL FILED: January 18, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about December 14 and 27, 1944, by R. C. Sammon, Houston, Tex.

PRODUCT: 28 cartons, each containing 48 2½-ounce packages, of dehydrated soup mix at New York, N. Y. Examination showed that the article contained weevils, larvae, and insect fragments.

LABEL, IN PART: (Package) "Lipton's Noodle Soup * * * Made by Continental Foods Inc., Hoboken, N. J. A Member of the Lipton Tea Family."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance.

DISPOSITION: February 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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¹ (7808) Prosecution contested. Contains instructions to the jury.

² (7701, 7783) Seizure contested. Contains findings of fact and conclusions of law.

³ (7850) Seizure contested. Contains opinions of the court.

⁴ (7876) Prosecution contested.

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¹ (7808) Prosecution contested. Contains instructions to the jury.
⁵ (7858) Seizure contested.

² (7701, 7783) Seizure contested. Contains findings of fact and conclusions of law.
³ (7850) Seizure contested. Contains opinions of the court.
⁴ (7876) Prosecution contested.

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Corn Products Refining Co. :		Greene Products Co. :	
salad oil -----	7879	fruit-flavored beverage sirups ---	7702, 7706
Culpepper, W. H. :		Guarino, J. :	
corn meal -----	7719	edible oil -----	7878
Daitch, L., & Co., Inc. :		Hardie Brothers Co. :	
butter -----	7775	peanuts -----	7861
Delft Cooperative Creamery :		Hargis Canneries, Inc. :	
butter -----	7779	canned spinach -----	7837
Detroit Harbor Terminal, Inc. :		Hartford Peanut Co. :	
spray-dried whole eggs -----	7786	peanuts -----	7860
Draper and Co., Inc. :		Hartmann Canning Co. :	
canned peas -----	7831	canned beets -----	7825
Dulien Steel Products Co. :		Haxton, George W., & Son, Inc. :	
rice -----	7752	frozen raspberries -----	7814
Durham, W. W. :		Henderson & Helms, Inc. :	
dressed poultry -----	7883	peanuts -----	⁵ 7858
Ebbighausen, Walter :		Hickman and Sterling :	
dried whole eggs -----	7784	oysters -----	7803
Eckhart, B. A., Milling Co. :		Highway Butter and Egg Co., Inc. :	
brewers' ground wheat -----	7745	frozen eggs -----	7789
Economy Fillet Co. :		Hodges, Joe, Warehouse Co. :	
frozen flounder fillets -----	7792	soy flour and soy grits -----	7743
Edwards, Jan :		Howeth, Charles W., and Brother :	
candy -----	7760	oysters -----	7802
Edwards, Jan Candy Co. See Ed- wards, Jan.		Hunter Walton Co. :	
Empire Freight Co. :		butter -----	7779
fruit-flavored beverage sirups ---	7706	Independent Food Products Co. :	
Euclid Coffee Co. :		frozen eggs -----	7787
compound pepper -----	7892	Josey-Miller Co., Inc. :	
Fairmont Creamery Co. :		corn meal -----	7719
butter -----	7773	Kedney Warehouse :	
eggs, frozen -----	7790	filberts -----	7857
Fairview Packing Co. :		Kimbell Food Products Co. See Kim- bell Milling Co.	
canned cherries -----	7807	Kimbell Milling Co. :	
Farmers Co-Op. Creamery Co. :		peanut butter -----	7866
butter -----	7774	Kirby, Marshall, & Co., Inc. :	
Farmers Coop. Creamery Co. :		dried whole eggs -----	7784
butter -----	7778	Kleckner, David, and Son, Inc. :	
Farmers Rice Milling Co., Inc. :		food color -----	7896
rice -----	7752	Klein's Food Products :	
Feek Cigar Co. :		pickles -----	7832
candy -----	7761	Knapp, J. A. :	
Ferris-Noeth-Stern Co. (division of Wood and Selick, Inc.) :		chili powder, chili pepper, and pa- prika -----	7887
desiccated coconut -----	7855	La Sierra Heights Canning Co., Inc. :	
Fettig Canning Corp. :		tomato puree and tomato paste ---	7848
tomato catsup -----	7844	Ladoga Canning Co. :	
Finer Foods Packing Corp. :		tomato puree -----	³ 7850
Pan-American Sauce -----	7890	Langendorf United Bakeries, Inc. :	
Florida Sales Corp. :		bread -----	7716
desiccated coconut -----	7855	Leggett, F. H. :	
Foote, D. E., and Co., Inc. :		canned tuna fish -----	7797
tomato puree -----	7849	Leonard, J. H. :	
Foster, George :		oysters -----	7801
Egg-O-Save -----	7895	Lerner, P., Co. :	
Foster, George, Inc. :		butter -----	7774
Egg-O-Save -----	7895	Liberty Chocolate Co. :	
Frank, L., & Co., Inc. :		chocolates -----	7763
butter -----	7773	Liberty Fig and Date Co. :	
Frantz Co. :		stuffed fruit -----	7813
whole wheat flour mix -----	7748	Love's Confections, Inc. :	
Frederick City Packing Co. :		popcorn -----	7749
canned peas -----	7830	Lowe, Joe, Corp. :	
Frigid Food Products, Inc. :		dried whole eggs -----	² 7783
frozen eggs -----	7788		
Fuhrer-Ford Milling Co. :			
self-rising flour and plain flour ---	7741		
Gale, H. B., and W. D. :			
crab meat -----	7800		
Gale Packing Co. See Gale, H. B., and W. D.			
Gentry, C. B., Co. :			
chili powder -----	7885, 7886		

¹ (7808) Prosecution contested. Contains instructions to the jury.

² (7701, 7783) Seizure contested. Contains findings of fact and conclusions of law.

³ (7850) Seizure contested. Contains opinions of the court.

⁵ (7858) Seizure contested.

	N. J. No.		N. J. No.
Lyons-Magnus, Inc.:		Pet Milk Co.:	
Kernel Paste-----	7898	Cheddar cheese-----	7782
Mactavish Preserves Co., Inc.:		Phillips Co., Inc.:	
apricot jam and strawberry jam--	7816	jellies-----	7819
Manley, Inc.:		Plantation Extract Co.:	
popcorn-----	7750	vanilla extract-----	7894
Maritime-National Fish, Ltd.:		Planters Wholesale Grocery:	
frozen pollack fillets-----	7793	cane sugar-----	7770
Maryland Pacific Cone Co.:		Previte, D. A.:	
cone flour-----	7731	edible oil-----	⁴ 7876
Massachusetts Ice and Cold Storage Co.:		Princess Pecans, Inc.:	
frozen ocean perch-----	7794	pecans-----	7872
Master Brands of America:		Puccinelli Packing Co.:	
beverage sirups-----	7705	raisins-----	7811
Mayer, Peter:		Quaker Oats Co.:	
dried mushrooms-----	7827	phosphated flour and plain flour--	7737
Mayfair Food Products Co.:		Quality Products, Inc.:	
sauerkraut-----	7834	canned tomatoes-----	7839
Mayville Creamery:		Reeves, Parvin and Co.:	
butter-----	7777	whole buckwheat, groats, buckeye	
Meier, John J., and Co.:		rolled oats, buckwheat and wheat	
lima beans, pinto beans, and pink		flour, pudding mix, and spa-	
beans-----	7823	ghetti-----	7746
Michels:		Ripley Canning Co.:	
sirup-----	7767	canned tomatoes-----	7841
Middlesex Feed and Machinery Co.:		Riverside Mills:	
flour-----	7724	flour-----	7727
Midwest Chemical Co.:		Robertson Peanut Co.:	
Sugarine-----	7772	peanut butter-----	7869
Miner-Hillard Milling Co.:		Rose Warehouse Co.:	
wheat flakes-----	7758	flour-----	7725
Minervini, John:		Rosenberg Bros. Co.:	
tomato(es), canned-----	7840	prunes-----	7810
paste-----	7845	Ross Milling Co.:	
Mississippi Valley Canning Co.:		flour-----	7726
canned peas-----	7829	Royal Canning Corp.:	
Morgan City Packing Co.:		canned cherries-----	7806
frozen shrimp-----	7805	St. Cloud Milling Co.:	
Morgan Packing Co.:		flour-----	7728
pork and beans, canned, with to-		Salient Flavoring Corp.:	
mato sauce-----	7824	orange juice concentrate-----	7709
tomato catsup-----	7843	Salley Grocer Co.:	
Morrison Milling Co.:		flour-----	7723
corn meal-----	7722	Sammon, R. C.:	
Mount Airy Sales Co.:		dehydrated noodle soup mix-----	7900
tomato puree-----	7849	Scheidt, Bruno:	
Mouton Rice Milling Co.:		sirup-----	7768
rice grits-----	7755	Sea Pride Packing Corp., Ltd.:	
National Biscuit Co.:		canned sardine fillets-----	7796
bakery products-----	7718	Segal, George, Co.:	
National Carloading Corp.:		brewers' ground wheat-----	7745
candy-----	7762	Shellabarger Mill and Elevator Co.:	
National Foods, Inc.:		phosphated flour-----	7738
egg noodles-----	7711	Shupe-Williams Candy Co.:	
National Frosted Foods, Inc.:		candy-----	7759
frozen flounder fillets-----	7792	Silver Mill Rice Co.:	
Nebraska Consolidated Mills Co.:		rice-----	7754
self-rising flour and phosphated		Sokol and Co.:	
flour-----	7739	dried mushrooms-----	7828
New Jersey Empire Pickle Works, Inc.:		Sorensen Creameries:	
sauerkraut-----	7836	butter-----	7776
North American Cold Storage:		Southgate Foods:	
butter-----	7774	peanut butter-----	7867, 7868
North Shore Fillet Co.:		Southland Pecan Co., Inc.:	
frozen whiting-----	7798	pecans-----	7875
Oelwein Farmers Cooperative Cream- ery Co.:		Southwest Food Products Co.:	
butter-----	7775	apple jelly-----	7818
Old Chateau Products:		Staley, A. E., Manufacturing Co.:	
sirup-----	7769	soy flour-----	7742
Omaha Cold Storage Co.:		Standard Fruit Product Co.:	
frozen cooked turkey skin-----	7884	blackberry jam-----	7817
Oregon Nut Shellers:		Standard Synthetics, Inc.:	
filberts-----	7856	oil of lemon-----	7889
Overbrook Co., Inc.:		Stein-Hall:	
distilled spirits-----	7710	Hallmark Caradex and Lacedex (soy	
Parke, L. H., Co.:		flour mixes)-----	7747
ground paprika-----	7891	Sterling Canning Co.:	
Parker Bros.:		canned corn-----	7826
candy-----	7759	Stork Brothers:	
Parker Peanut Co.:		dressed poultry-----	7881
peanuts-----	7862	Suffolk Peanut Co.:	
Parrott & Co.:		peanuts-----	7859
asparagus, canned-----	7820	Sugar Creek Creamery Co.:	
tomato paste-----	7847	butter-----	7774
Peerless Roller Mills:		Superior Biscuit Co., Inc.:	
flour-----	7741	pastry flour-----	7732

⁴ (7876) Prosecution contested.

	N. J. No.		N. J. No.
Superior Fillets, Inc.:		Vincennes Packing Corp.:	
frozen flounder fillets-----	7792	tomato catsup-----	7842
Swift Co.:		Viviano & Brothers Macaroni Manu-	
rubbed sage rosemary-----	7893	facturing Co.:	
Swift & Co.:		macaroni and spaghetti-----	7713
butter-----	7774	Wabash Roller Mill Co.:	
eggs, spray-dried-----	7786	flour-----	7727
Taormina Co.:		Walton, Hunter, Co. See Hunter	
tomato paste-----	7846	Walton Co.	
Taylor, Mary, Chocolate Co.:		Waples-Platter Co.:	
chests of candy-----	7764	dehydrated noodle soup mix-----	7899
Terminal Refrigerating and Ware-		Warfield Co. (Thomson and Taylor	
housing Corp.:		Division):	
rice-----	7751	rubbed sage rosemary-----	7893
Thomas and Clarke:		Washington Fish and Oyster Co.:	
cookies-----	7717	frozen clams-----	7799
Thomson and Taylor Division. See		Warner's, Mrs., Preserving Co.:	
Warfield Co.		sauerkraut-----	7835
Thornton Canning Co.:		West Sacramento Growers:	
tomato paste-----	7847	rice-----	7753
Tiffany Extract Co.:		Western Star Mill Co.:	
sirup-----	7767, 7768	phosphated flour-----	7735
Topeka Wholesale Grocery Co.:		Wheeler, Charles, Co.:	
Tenderoni-----	7715	butter-----	7776
Tracy, Mrs. George D., Poultry &		White, J. H., Co.:	
Eggs:		oysters-----	7804
dressed poultry-----	7882	White, L. N., & Co.:	
Tri-State Milling Co.:		Garbanzos beans-----	7821
flour-----	7730	Wittner, George, & Co., Inc.:	
Uddo and Taormina Co.:		butter-----	7777
tomato puree and tomato paste----	7848	Wood and Selick, Inc.:	
Union County Pickle Co., Inc.:		cashew kernels-----	7853
sauerkraut-----	7835	coconut, desiccated-----	7855
Van De Kamps Bakeries:		Wright, Mora and Gonzales:	
pecans-----	7871	ginger root-----	7888
Victor Syrup Corp.:		Yoerg Brewing Co.:	
fruit-flavored beverage sirups-----	7704	brewers' corn flakes-----	7744

Errata: In F. N. J. No. 7115, change *Foster, District Judge* to *J. Foster Symes, District Judge*; in F. N. J. Nos. 6601-6800, change N. J. No. from 6001 to 6601; in F. N. J. Nos. 7351-7500, change N. J. No. from 8463 to 7463.

FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

7901-7925

FOODS

The cases reported herewith were instituted in the United States District Courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

WATSON B. MILLER, *Acting Administrator, Federal Security Agency.*

WASHINGTON, D. C., August 27, 1945.

VITAMIN PREPARATIONS AND FOODS FOR SPECIAL DIETARY USES

7901. Adulteration and misbranding of Vita-Slim. U. S. v. 480 Jars of Vita-Slim, a Number of Display Cards, and 500 Copies of a Circular. Default decree of condemnation and destruction. (F. D. C. No. 14027. Sample No. 85664-F.)

LIBEL FILED: October 16, 1944, District of Colorado.

ALLEGED SHIPMENT: Between the approximate dates of August 11 and September 18, 1944, by the Vitamin Industries, from Omaha, Nebr.

PRODUCT: 480 jars, each containing 12 ounces, of Vita-Slim, a number of display cards, reading, in part, "Vita-Slim To Help You Reduce," and 500 copies of a circular entitled, "Vita-Slim Helps You To Reduce Your Figure," at Denver, Colo.

Examination of a sample showed that the article contained soya flour and sugars together with small amounts of compounds of calcium, phosphorus, iron, iodine, magnesium, and manganese; and that it was more than 70 percent deficient in calcium, phosphorus, iron, and iodine.

LABEL, IN PART: "Vita-Slim Soya & Vitamin Food Drink."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), valuable constituents, calcium, phosphorus, iron, and iodine, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a). The label statements, "One serving of 2 teaspoonfuls, (1½ ounce) provides not less than the minimum daily requirements (if such requirement has been determined) of the following * * * minerals. * * * Calcium ----- 300 Milligrams Phosphorus ----- 500 Milligrams Iron ----- 15 Milligrams Iodine ----- 0.1 Milligram," were false, since the article contained lesser amounts of the ingredients than declared. The labeling statements quoted below were false and misleading since they represented and suggested that use of the article would quickly, safely, and easily effect loss of body weight, whereas use of the article would not accomplish the results suggested and implied: (Label) "Vita-Slim"; (circular entitled "Vita-Slim Helps You to Reduce Your Figure") "The amazing successful development of nutrition scientists Vita-Slim Helps You To Reduce Your Figure Safely Quickly Easily It's New! It's Safe! It's Quick! Vita-Slim Nourishes Your Body

While You Reduce * * * Helps You Control Your Appetite * * * Actually Makes Reducing Pleasant No need to shock your entire system with drugs, chemicals, sustained steam treatments, 'starvation diets', and many other dangerous routines. Two teaspoonfuls of Vita-Slim provide the full daily requirements of all essential vitamins and minerals and thereby gives full protection against any possible deficiency. Fit Your Figure Now To The New Silhouette * * * Vita-Slim * * * No Harmful Drugs No Dangerous Chemicals No Annoying Treatments * * * Every day of delay is just another day you've missed the priceless joy of owning a trim figure . . . a healthy figure . . . lovely for all to behold"; (display card entitled "Vita-Slim to help you Reduce Weight") "Vita-Slim to help you Reduce Weight! Safely . . . Quickly . . . Easily * * * No Harmful Drugs No Dangerous Chemicals No Annoying Treatments."

Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by man by reason of its vitamin, mineral, or other dietary properties, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirements of vitamins A, B₁, B₂, C, and D, and the proportion of the minimum daily requirements of the minerals calcium, phosphorus, iron, and iodine supplied by such food when consumed in a specified quantity during a period of 1 day; its label also failed to bear a statement that the need in human nutrition for the vitamins calcium pantothenate, vitamin E, and vitamin B₆ has not been established, and a statement of the quantity of vitamin B₆ in a specified quantity of the food.

DISPOSITION: October 27, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7902. Misbranding of Benefax Vitamin B Complex, Vitamins A & D, and Multi Vitamins. U. S. v. 44 Boxes and 22 Bottles of Benefax Vitamin B Complex, 332 Boxes and 166 Bottles of Benefax Multi * * * Vitamins, and 310 Boxes and 166 Bottles of Benefax Vitamins A & D. Decrees of condemnation. Products ordered released under bond. (F. D. C. No. 12121. Sample No. 33885-F.)

LIBEL FILED: April 3, 1944, Western District of New York.

ALLEGED SHIPMENT: On or about September 25, 1943, by the Anacin Co., from Jersey City, N. J.

PRODUCT: 22 14-capsule boxes, 22 28-capsule boxes, and 22 100-capsule bottles of Benefax Vitamin B Complex; 166 14-capsule boxes, 166 28-capsule boxes, and 166 100-capsule bottles of Benefax Multi Vitamins; and 144 14-capsule boxes, 166 28-capsule boxes, and 166 100-capsule bottles of Benefax Vitamins A & D, at Rochester, N. Y.

Examination of samples indicated that the various articles had essentially the vitamin content specified on the labels.

LABEL, IN PART: "Benefax Vitamins A & D * * * Each Gelatin Capsule Provides Vitamin A . . . 5,000 U. S. P. Units * * * Vitamin D . . . 1,000 U. S. P. Units," "Benefax Multi * * * Vitamins * * * Each Gelatin Capsule Provides Vitamin A * * * . . . 5,000 U. S. P. Units Vitamin B₁ * * * . . . 1.5 Milligrams Vitamin C * * * 15 Milligrams Vitamin D * * * . . . 1,000 U. S. P. Units Vitamin B₂ (G) * * * . . . 2 Milligrams Niacin Amide * * * . . . 10 Milligrams," or "Benefax Vitamin B Complex * * * Each Gelatin Capsule Provides Vitamin B₁ * * * . . . 1.5 Milligrams Vitamin B₂ (G) * * * . . . 2 Milligrams Vitamin B₆ * * *125 Milligrams Niacin Amide * * * . . . 10 Milligrams Calcium Pantothenate25 Milligrams Plus 1 Grain of Fresh Whole Liver and ¼ Grain of Brewer's Yeast."

VIOLATION CHARGED: Misbranding, Section 403 (a), the following statements on the display card accompanying the articles were misleading since they represented and suggested that the articles would be competent and effective treatments for the various conditions mentioned, whereas they would not be competent and effective treatments for those conditions: (B Complex) "A Sure-Fire Way of Selecting your vitamins Tired Out? Nervous? Due to shortage of B-Complex vitamins Select the Red Capsules * * * Which Vitamins For Your Customers? Tire Easily. Edgy Nerves. Irritable. Poor Appetite. Due to shortage of B-Complex Red Capsules Red Box B Complex"; (Multi Vitamins) "A Sure-Fire Way of selecting your vitamins * * * Run Down Generally? Due to shortage of several vitamins Select the Orange Capsules * * * Which Vitamins For Your Customers?"

* * * Generally Run Down and Under Par. Low Vitality. Due to shortage of several vitamins Orange capsules Orange Box Multi"; (Vitamins A & D) "A Sure-Fire Way of Selecting your vitamins * * * Dry Skin? Resistance Low? Due to shortage of vitamins A & D Select the Yellow Capsules * * * Which Vitamins For Your Customers? * * * Low Resistance. Dry Skin. Night Blindness. Due to shortage of vitamins A & D Yellow capsules Yellow Box A & D."

The articles were also alleged to be misbranded under the provisions of law applicable to drugs, as reported in notices of judgment on drugs and devices.

DISPOSITION: April 16, 1945. The Whitehall Pharmacal Co., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the products were ordered released under bond, conditioned that the display cards be destroyed.

7903. Misbranding of wheat germ. U. S. v. 88 Packages of Wheat Germ. Default decree of condemnation and destruction. (F. D. C. No. 12680. Sample No. 75714-F.)

LIBEL FILED: June 17, 1944, Northern District of Ohio.

ALLEGED SHIPMENT: On or about April 14, 1944, by the Triple Health Food Co., Rochester, N. Y.

PRODUCT: 88 1-pound packages of wheat germ at Warren, Ohio.

Examination showed that the product was essentially wheat germ.

LABEL, IN PART: "Triple Health (Superior) Wheat Germ * * * A Natural Medicinal Food."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the statements on the label of the article, "Triple Health A Vitality-Filled Body A Cheerful Mind * * * A Peaceful Spirit The Triple Health System * * * A Natural Medicinal Food * * * Twice as rich in protein as meat. Contains vitamins A, * * * E and G. Rich in organic minerals. Recommended as a physical builder. Nerve and mental tonic. Digestive and eliminative aid. Beneficial in skin conditions, etc. * * * Triple Health Food," were false and misleading since the article was not a medicinal food, would not effect the results suggested and implied, would provide nutritionally inconsequential amounts of vitamins A, E, and G, was not rich in organic minerals, and was not twice as rich in protein as is meat; and, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by man by reason of its vitamin and mineral content, but its label failed to bear, as required by the regulations, (1) a statement of the proportion of the minimum daily requirements of vitamins A, B, and G, and the quantity of vitamin E, supplied by a specified quantity of the article when consumed during a period of 1 day, (2) a statement that "The need for vitamin E in human nutrition has not been established," and (3) a statement of the particular minerals present in the article and the quantities thereof.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1330.

DISPOSITION: August 7, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7904. Misbranding of Zo-Lon. U. S. v. 17 Dozen Packages of Zo-Lon. Default decree of condemnation and destruction. (F. D. C. No. 14425. Sample No. 90096-F.)

LIBEL FILED: November 13, 1944, Southern District of Iowa.

ALLEGED SHIPMENT: On or about September 15, 1944, by the Zo-Lon Co., from Dallas, Tex.

PRODUCT: 17 dozen packages of Zo-Lon at Des Moines, Iowa.

Examination showed that the article consisted of approximately 60 percent of ground Indian Plantago seed (blond psyllium seed), and approximately 40 percent of sugar (sucrose), dextrin, dextrose, and a very small proportion of milk sugar (lactose).

VIOLATION CHARGED: Misbranding, Section 403 (a). The label statement, "A low calory * * * supplement to reducing diets," was misleading as applied to the product, which contained a substantial proportion of carbohydrates and therefore was not a low-calorie food. The label statements, "Aids in satisfying desire for sweets and for excess foods, thus enabling easier following of any accustomed diet," and "If you are cutting down on starchy foods, such as

potatoes, white bread, etc., fatty foods, sweets and taking more fruits and fruit juices, this supplement should be a real aid in your efforts," were false and misleading since such statements implied that the article was not a sweet or carbohydrate food, whereas it contained a substantial amount of sugars, and since it would not, when used as directed, satisfy the desire for sweets or for excess foods, and would not enable the user more easily to follow any accustomed diet, or aid the user in cutting down the consumption of such foods.

Further misbranding, Section 403 (a). The label statement, "If you are cutting out breakfast or lunch, Zo-Lon taken at that time, should help you to furnish nutrition to fortify you for the loss of food," was false and misleading since the nutrition furnished by the article when used as directed, i. e., 2 rounded teaspoonfuls, consisted essentially of an inconsequential amount of carbohydrates and would not fortify the user for the loss of the quantities and kinds of the various nutritional factors ordinarily consumed as breakfast or lunch. The label statement, "Contains: Dextrose, Indian Plantago Seed, Psyllium Seed, Dextrine, Lactose," was false and misleading since the article contained, in addition to the ingredients stated, a material proportion of sugar (sucrose) and contained no variety of psyllium seed other than Indian Plantago seed. The label statement, "Contains no drug laxative," was misleading since the preparation contained psyllium seed, which is a laxative drug.

DISPOSITION: December 15, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed

7905. Misbranding of Grayvita. U. S. v. 379 Bottles and 102 Bottles of Grayvita. Default decree of condemnation and destruction. (F. D. C. No. 9981. Sample Nos. 36211-F to 36213-F, incl.)

LIBEL FILED: May 24, 1943; libel amended July 2, 1943, District of Colorado.

ALLEGED SHIPMENT: On or about April 21, 1942, and May 6, 1943, by the Carlay Co., from Chicago, Ill.

PRODUCT: 379 bottles, each containing 100 tablets, and 102 bottles, each containing 30 tablets, of Grayvita at Denver, Colo.

The article was represented on its label to contain 10 milligrams of calcium pantothenate and 450 International Units of vitamin B₁ per tablet.

VIOLATIONS CHARGED: Misbranding, Section 403(a), the following and similar statements in the labeling were false and misleading since they represented and suggested that the article, when used as directed, would be effective in preventing gray hair or restoring natural color to gray hair, whereas the article, when used as directed, would not be effective for those purposes: (Display card entitled "Gray Hair? Try Grayvita") "The new anti-gray hair vitamin known as Calcium Pantothenate"; (leaflet entitled "Information For Clerks and Users Regarding Gray Hair Vitamins Known as Grayvita") "What is this vitamin that is supposed to restore color to gray hair? Ans. Calcium Pantothenate. What evidence is there that Calcium Pantothenate will restore hair color? Ans. Experiments on animals and the report of actual use of this vitamin by 25 men and women over a period of seven months. This report appeared in Good Housekeeping Magazine for February, 1942, and it states that 22 of the 25 persons showed positive evidence of a return of normal hair color"; (leaflet entitled "Some Scientific Proof for Anti-Gray Hair Vitamins") "Experiments further show that in those diets where lack of calcium pantothenate is artificially produced, premature graying of the hair immediately results. * * * Grayvita Is Calcium Pantothenate Plus!"; (leaflet entitled "Good Housekeeping Announces the Results of Its Research on Vitamins and Gray Hair") "88 percent of the gray-haired men and women tested by Good Housekeeping Laboratories show evidence of the return of natural hair color after months of scientific tests"; (window poster entitled "Do You Have a Gray Hair Problem?") "Get Grayvita! The New Anti Gray Hair Vitamin Discovery."

Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its vitamin B₁ and calcium pantothenate content, and its label failed to bear, as required by the regulations, the statement, "The need for calcium pantothenate in human nutrition has not been established."

DISPOSITION: On July 24, 1943, on motion of the Carlay Co., claimant, the case and records were ordered transferred to the Northern District of Illinois. On August 18, 1943, the order of transfer was vacated and the case was ordered transferred to the Southern District of Illinois. On December 22, 1943, the records which had been sent to the Northern District of Illinois were ordered

transmitted to the Southern District of Illinois, the court handing down the following memorandum opinion:

BARNES, *District Judge*: "On May 24, 1943, a libel for condemnation was issued out of the District Court of the United States for the District of Colorado against 479 bottles of 'Grayvita.' On July 24, 1943, a motion was made by the claimant in the District Court of the United States for the District of Colorado at Denver to remove and transfer the said cause to the Northern District of Illinois, Eastern Division, and an order was made on that day transferring and removing the cause to the District Court for the Northern District of Illinois, Eastern Division. Pursuant to the order of July 24, 1943, the clerk of the court for the District of Colorado caused a physical transfer and removal of all papers, documents, complaint and information in said cause to the clerk of the District Court of the United States for the Northern District of Illinois, Eastern Division, and the clerk of this court filed and docketed said cause. Subsequently, the claimant filed its answer and the cause was set for trial in this court.

"On August 18, 1943, on motion of the United States Attorney for the District of Colorado, the District Court for that district, vacated its previous order of July 24, 1943, and transferred the cause to the District Court of the United States for the Southern Division of Illinois at Springfield, Illinois, and ordered the clerk of this court to transfer and remove the cause from Chicago, Illinois, to the District Court Southern Division at Springfield, Illinois.

"It seems that the United States desires to try its case in Springfield, Illinois, while the defendant desires to try the case in Chicago, where it says it has its principal place of business. The court would very much dislike a controversy either with the District Court for the District of Colorado or with the District Court for the Southern District of Illinois. The defendant questions the jurisdiction of the District Court for the District of Colorado to make its second order. No case directly in point has been called to the attention of the court.

"The court will assume that since the orders of July 24, 1943, and August 18, 1943, were both rendered at the same term of the District Court for the District of Colorado, the first order was still in the breast of the court at the time of the making of the second order, and, accordingly, the second order was valid. Had this court proceeded to dispose of the case prior to the making of the second order it is possible that a different question would be presented.

"The clerk of this court is directed to transmit to the clerk of the District Court for the Southern District of Illinois, at Springfield, Illinois, all records in this case that were received by him—in accord with the second order of the District Court for the District of Colorado, above referred to."

On March 24, 1945, the Carlay Co. having notified the court that it would not contest the action further, and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

7906. Misbranding of Ivita High Potency Capsules, B Family Tablets, StafTabs, and Capatabs Calcium Pantothenate Tablets. U. S. v. 5 Packages of Ivita High Potency Capsules, 77 Packages of B Family Tablets, 46 Packages of StafTabs Calcium and Phosphorus Tablets, and 26 Bottles of Capatabs Calcium Pantothenate Tablets. Default decrees of condemnation and destruction. (F. D. C. No. 11631. Sample Nos. 38677-F, 38678-F, 38681-F, 38683-F.)

LIBEL FILED: On or about February 1, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: Between the approximate dates of October 8, 1943, and January 10, 1944, by Modern Products, Inc., from Milwaukee, Wis.

PRODUCT: 5 packages, each containing 30 Ivita High Potency Capsules; 22 100-tablet packages, 48 220-tablet packages, and 7 600-tablet packages of B Family Tablets; 33 100-tablet packages and 13 320-tablet packages of StafTabs; and 26 bottles, each containing 100 tablets, of Capatabs Calcium Pantothenate, at Chicago, Ill.

Examination showed that the Ivita Capsules contained vitamin A; that the B Family Tablets contained yeast, thiamine, and riboflavin; that the StafTabs consisted essentially of calcium, phosphorus, vitamin D, sugars, salt, and a mint flavor; and that the Capatabs Calcium Pantothenate consisted essentially of calcium pantothenate, 10 milligrams per tablet.

VIOLATION CHARGED: Ivita Capsules, misbranding, Section 403 (a). The labeling statements quoted below were false and misleading since they represented and suggested that the administration of vitamin A would be effective in overcoming flash blindness during night driving and in the prevention of infections of the body, whereas the administration of vitamin A would not be so effective: (Circular entitled "Vitamin A") "The importance of maintaining adequate

Vitamin A reserves to avoid any degree of nyctalopia cannot be over-stressed in this age of night driving. When there is even a slight deficiency the eyes do not respond to changes in light intensity as quickly as they should. A flash from an approaching headlight might produce only a short period of blindness, but it may be long enough to cause a fatal accident. Lowered Resistance When the body reserves of Vitamin A are exhausted and there is a deficiency of this vitamin in the daily diet, the resistance of the body to infections in general is lowered. Colds, influenza and other infections are more likely to take hold. Taking Vitamin A after the infection has set in is like locking the stable after the horse is gone. The function of Vitamin A is that of maintaining the resistance at a high point, not to cure infections. The value of essential food elements lies largely in the robust health they help promote. * * * When the body reserves of Vitamin A become exhausted, night-blindness and lowered resistance to infections occur. There is also interference with normal growth."

B Family Tablets, misbranding, Section 403 (a). The following and similar statements in the labeling were false and misleading since they represented and suggested that the article was effective in the prevention or cure of the diseases, symptoms, and conditions mentioned, whereas the article was not so effective: (Circular entitled "Your Diet and Your Nerves") "Vitamin B₁ and The Nerves * * * Many authorities hold that even though the Vitamin B₁ intake may be sufficient to prevent symptoms of frank deficiency it may not be enough to yield the full natural benefits of this vitamin. * * * Of all the vitamins, Vitamin B₁ is most likely to become deficient in a diet because of its presence in foods in only very small quantities. That is the principal reason that supplementation of the diet with B vitamins is so universally recognized by authorities as a desirable feature"; (circular entitled "Laugh At Your Former Self") "Many people are accused of laziness or suffer nervous irritability not because they are naturally so disposed but because they are vitamin deficient. * * * Many Children Lack Energy Due to Vitamin B Deficiency . . . * * * Niacin Essential to Prevent * * * Certain Skin Disorders * * * (Pantothenic Acid) Prevents Skin Disease in Chicks B₂ (Riboflavin) Essential * * * to Prevent Certain Skin Disorders * * * B₃ Essential to Maintain Weight in Pigeons * * * B₅ Maintains Weight in Pigeons * * * Growth in Rats B₆ Prevents Nervous Disease and Disturbances of the Alimentary Tract in Rats Factor W Essential for Growth in Rats * * * In a carefully executed clinical study of intestinal disorders, it has actually been shown that the conditions studied were not improved when separate factors of the B complex were administered. But, when the whole B complex was used, these intestinal conditions were greatly improved, even though the amount administered was considerably less when the same vitamins were given separately. As a further example, a serious deficiency of niacin produces the disease pellagra. However, in treatment of pellagra it was found desirable to administer not only extra quantities of niacin but also extra quantities of thiamine and riboflavin in order to clear up associated symptoms. * * * Vitamin B₁ (Thiamine) Helps you get energy from foods. You must have a plentiful supply of vitamin B₁ in order to properly utilize the energy producing foods. If the diet is deficient in Vitamin B₁ you are subject to 'that tired feeling.' Deficiency also causes lack of appetite, mental depression, and muscular cramps and aches. * * * Vitamin B₂ (Riboflavin) We need riboflavin for normal growth and health. It helps keep our skin, eyes and hair healthy—especially the skin around the mouth—and it promotes growth in children. Niacin— * * * An adequate amount is needed for general well-being. Mild deficiencies may result in rendering the skin rough. * * * Pantothenic acid and pyridoxine (vitamin B₆) are two other known factors of the vitamin B Complex. Nutritional authorities generally agree that these two factors play some essential role in sound nutrition but the specific need and least quantity required have not yet been definitely established. * * * Some scientific work would indicate that pantothenic acid and possibly other members of the B Family may aid in the restoration of color to gray hair. 10 Known Vitamins and Vitamin Factors All ten of the known vitamins and vitamin factors present in the B complex as it occurs in Nature, are present in B Family Tablets. B Family Tablets contain all the vitamins of the B complex known to be essential to proper nutrition of man * * *. Nervousness Bickering Irritability The Jitters These symptoms may indicate a deficiency in vitamins of the B complex family. * * * The B complex vitamins are most essential because they govern many of the vital processes of the body which are necessary in the proper utilization of energy producing food. When they are deficient, the carbohydrates are not properly metabolized in the body and symptoms

such as nervousness, fatigue, irritability and vague aches and pains occur. * * * mild deficiencies, giving rise to milder forms of these symptoms, are not uncommon. Be Alert It is Your Patriotic Duty to Keep Healthy."

StaTab's, misbranding, Section 403 (a). The labeling statements quoted below were false and misleading since they represented and suggested that calcium would be effective to bring about the conditions mentioned, whereas calcium would not be so effective: (Circular entitled "Calcium in Human Nutrition") "The Importance Of Blood Calcium Heart—When blood calcium is low the contractability of the muscles becomes impaired. This means all the muscles. Since the heart is the most important muscle of the body when low blood calcium persists the heart cannot beat as strong and true. The whole muscular strength of the body also becomes reduced. Nerves—Adequate calcium in the blood helps protect the nerves from irritation. When the blood calcium is low the excitability of the nerve is increased. Blood—On wounding, blood will not clot properly if its calcium supply is low. Calcium combines with prothrombin, on exposure to air, to produce one of the principal factors in clot formation. Thus when blood calcium is inadequate, what otherwise might be a minor injury may well become serious. Growth—Inadequate dietary calcium in children retards growth. Tall, strong adults cannot result unless the calcium supply is adequate during the growth period. Thus We See That For Stature, Strength, Stamina And Fortitude We Depend, In Demonstrable Measure, Upon An Adequate Daily Calcium Supply."

Capatab's Calcium Pantothenate Tablets, misbranding, Section 403 (a). The following and similar statements in the labeling were false and misleading since they represented and suggested that the article was effective to restore color to gray hair, whereas the article was not so effective: (Counter display card entitled "Modern Products, Inc. Proudly Presents Capatab's") "Grey hair is usually considered a badge of old age. Yet, many people become prematurely grey, or develop patches of grey hair in their twenties or thirties. This often causes social disappointments and interferes with business advancement. Latest Scientific Discoveries About Grey Hair Recently, the 'Anti-grey-hair' factor of the Vitamin B Complex has been identified as pantothenic acid, and its most desirable form for administration is Calcium Pantothenate. In a recent experiment with this Vitamin by a prominent laboratory, most men and women in the test found it successful and showed positive evidence of a return of hair color. Results were obtained in periods ranging from three to six months. * * * In making a personal test of the relation of nutrition to natural hair color, it is important that you use a dependable product. * * * Try Capatab's in your fight against grey hair"; (circular entitled "A Challenge to All Who Have Grey Hair") "At Last Science Holds Out A Hope Of Restoration Of Natural Color To Grey Hair Through The Medium Of An Essential Food Factor A Challenge To All Who Have Grey Hair * * * Here then is a challenge to all who long for natural hair color, and the more youthful appearance it gives. Twenty-two people out of twenty-five responded favorably to a test. This is indeed a high percentage in any experiment involving physiological reactions. * * * more than a decade ago research workers in nutrition, with no thought of grey hair, made a discovery. Laboratory animals when fed a diet deficient in certain factors of the Vitamin B-Complex displayed 'achromotrichia'—the scientific word for loss of color of the hair. * * * Following the identification of pantothenic acid with possible anti-grey hair activity, several investigators have published successful results obtained with its use in laboratory animals."

The articles, with the exception of the Capatab's Calcium Pantothenate Tablets, were also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1282.

DISPOSITION: March 9, 1944. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

7907. Misbranding of Dr. Charles Northen's Minerals and B Vitamins and Dr. Charles Northen Minerals. U. S. v. 31 Bottles of Minerals and B Vitamins, 16 Bottles of Minerals, and 900 Folders. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15730. Sample Nos. 27534-H, 27535-H.)

LIBEL FILED: March 27, 1945, District of Oregon.

ALLEGED SHIPMENT: Minerals and vitamins, between the approximate dates of January 8 and February 6, 1945, by Colloidal Products, from Tampa, Fla.; folders, in the summer of 1944 and in January 1945, by the same firm.

PRODUCT: 17 60-capsule bottles and 14 180-capsule bottles of minerals and B vitamins, and 11 180-capsule bottles and 5 360-capsule bottles of minerals, at Portland, Oreg., together with 500 folders entitled "Dr. Charles Northen's Minerals Vitamins," and 400 pink and buff folders entitled "Startling Facts."

LABEL, IN PART: "Dr. Charles Northen's Minerals And B Vitamins [or "Minerals"]."

NATURE OF CHARGE: Misbranding, Section 403 (a), the following and similar statements, which appeared in the folders, created the misleading impression that the articles, individually or in combination, would be effective to supply nutritional elements not readily available from ordinary foods; that use of the articles would be effective in the treatment or prevention of such conditions as constipation, flatulence, dyspepsia, tiredness, poor blood, anemia, improper glandular functioning, and low resistance to disease; and that the articles would be effective to insure adequate nutrition, buoyant health, and proper body functioning: (Buff folder entitled "Startling Facts") "ARE YOU A VICTIM OF THIS 'HEALTH DANGER?' * * * 'The alarming fact is that foods—fruits and vegetables and grains—now being raised on millions of acres of land that no longer contains enough of certain needed Minerals, are starving us—no matter how much of them we eat.' 'Laboratory tests prove that the fruits, the vegetables, the grains, the eggs, and even the milk and the meats of today are not what they were a few generations ago. No man of today can eat enough fruits and vegetables to supply his system with the Minerals he requires for perfect health because his stomach isn't big enough to hold them.' * * * 'We now know that it must contain, in addition, something like a score of Minerals.' 'A marked deficiency of any one of the more important Minerals actually results in disease. Any upset of the balance, any considerable lack of one or another element, and we sicken, suffer, shorten our lives.' * * * 'Less than one-fourth of us are getting a "good diet", even when measured by the old standards.' * * * 'They not only build much of the body but also regulate body processes, fluids and secretions. They control the heart beat, the circulation of the blood and the functioning of nerves. EVERY GLAND, EVERY TISSUE, EVERY CELL IS DEPENDENT ON MINERALS FOR PROPER FUNCTIONING. * * * 'Bear in mind that Minerals are vital to human metabolism and health.' Much illness results from the lack of certain essential Minerals. Bio-Chemistry teaches us that OUR HEALTH IS NO BETTER THAN OUR MINERAL BALANCE and, as we correct our Mineral balance our health improves, to extent that Mineral deficiencies are lessened. Minerals may well be said to help control life itself as explained in the following: DID YOU KNOW THAT THE PRIME OF LIFE MAY BE PROLONGED? * * * 'A diet enriched with two to four times the amount of calcium usually considered adequate for normal nutrition proves beneficial throughout life. It maintains a HIGHER LEVEL of adult vitality with an extended prime of life, and increases life expectation.' MINERALS FOR CHILDREN Children require Minerals not only for maintenance purposes, but, in addition, an added supply for steady growth and development. Bad teeth, poor eyesight, jumpy nerves, low vitality, and other ills may result from an insufficient supply of vital Minerals. * * * CALCIUM is necessary to proper functioning of the glands and other vital organs of the body. Calcium controls the proper use of the other Minerals. Calcium is essential for the steady working of the heart. Calcium soothes irritable nerves and improves the temperament. You can't have a smooth temperament without an ample supply of calcium. Calcium determines the vitality of the nerve. All organs regulated by the nervous system depend on the presence of calcium for the integrity of their functions. * * * The 'average diet' is woefully short in iron, and very little of the iron in foods is absorbed. A deficiency of this vital mineral may mean lack of 'pep', possible digestive disturbances, perhaps an irritable disposition, and on the whole, a general indifference. * * * IODINE * * * helps to prevent loss of energy, obesity and physical and mental sluggishness. * * * POTASSIUM helps your body cells to take up oxygen and give off carbon dioxide. It also functions in the activities of the nerves. SULPHUR is essential to all forms of life. Sulphur is present in the body's natural insulin that keeps you from having diabetes. Your hair is rich in sulphur and there is evidence that sulphur stimulates its growth. Sulphur helps prevent brittle nails. Other Minerals, such as manganese, magnesium, sodium, zinc, cobalt, etc. have important functions to perform. WATCH OUT FOR MINERAL DEFICIENCIES Weak Tired Run-Down Feeling Premature Old Age Anemia Nervousness Underweight Poor Appetite Insomnia Tooth Decay and a host of other ills can easily be caused by Mineral deficiencies.

These conditions may also be due to other causes than Mineral deficiency. * * * 'Lacking Vitamins, the system can make some use of Minerals, but lacking Minerals, Vitamins are useless.' Balanced nutrition requires both Minerals and Vitamins. But, first, be sure you get your Minerals. HOW IS YOUR BLOOD? * * * If your diet is rich in Minerals and necessary food elements your blood will be rich and invigorating. * * * we lose our 'pep', look bedraggled and acquire a listlessness which is anything but attractive or nice to live with. THE PROBLEM * * * The problem is how to get them, how to maintain and improve health on today's foods. THE ANSWER A practical solution of the problem of Mineral deficiencies is represented in the formula of Dr. Charles Northen * * * 'Better health because of greater resistance contributed by foods rich in Minerals and Vitamins should interest every individual.' * * * Dr. Charles Northen's Minerals contain * * * copper, manganese, magnesium, sodium, potassium, sulphur, zinc—over twenty Minerals in capsule form for ready assimilation. Dr. Charles Northen's Minerals are largely composed of particles fine enough to be classed as Colloids. * * * reasonable to conclude that furnishing Minerals in the Colloidal state is cooperating with Nature. * * * It is impossible to be physically, mentally or morally fit without Minerals * * *'; (pink folder entitled "Startling Facts") " * * * 'Too great a percentage of the American people live in a state of borderline health, (being neither sick nor well), nervous, listless, mentally depressed, low in morale and efficiency.' * * * Soil deficiencies, growing conditions, transportation, storage, preparation and cooking, all rob food of minerals and vitamins. Many persons don't like to eat the foods they should. Taste alone is a poor guide to what you should eat. * * * A dietary supplement that supplies all the essential minerals and vitamins would seem to be the wise course. * * * The most difficult of the vitamins to obtain in ordinary foods are the B vitamins. * * * Surveys have shown that the average person in the United States does not receive enough B vitamins. Dr. T. D. Spies says at least 50% of the American people fail to have optimum health and maximum vigor because of a low intake of B vitamins. The B vitamins are easily destroyed by heat and dissolved out in water during cooking. DR. NORTHEN'S MINERALS AND B VITAMINS (MB) are a combination of essential minerals * * * DR. NORTHEN'S MULTIPLE MINERALS AND VITAMINS (MMV) give you 10 vitamins and more than 16 minerals and were developed to supplement the diet with all the minerals and vitamins known to be essential in human nutrition. DR. NORTHEN'S MULTIPLE MINERALS AND VITAMINS (MMV) are a safeguarding measure providing a generous and well balanced formula. DR. NORTHEN'S MULTIPLE MINERALS AND VITAMINS (MMV) give you all the known needed vitamins and all the essential minerals. You may not be suffering from severe deficiency diseases but, as nutritional surveys have shown, you may not be getting enough minerals and vitamins for buoyant health. If you feel nervous, run down, tired-out, weak and depressed, have no appetite, and are underweight, you may need more minerals and vitamins. * * *'; (folder entitled "Dr. Charles Northen's Minerals Vitamins") " * * * 'Life is not merely to be alive, but to be well.' * * * the average American diet cannot always be trusted to provide a sufficient amount of mineral salts * * * As we correct our mineral balance our health improves to extent that mineral deficiencies are lessened. * * * In adults, a deficiency is responsible for much of the constipation, flatulence, dyspepsia, etc. characteristic of middle and old age. With these conditions frequently go headaches, lack of 'pep', and a tendency to tire easily. * * * One of the surest guarantees against a shortage of any link in the nutritional chain would seem to be a complete, balanced mineral and vitamin supplement. * * * While no definite function has yet been fixed for some of the minerals and vitamins they are always present in the body and so are probably necessary, if not for life itself, at least for good health. * * * 'Better health because of greater resistance contributed by foods rich in minerals and vitamins [should interest every individual.]'"

The articles were also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

DISPOSITION: May 9, 1945. G. E. Short, Portland, Oreg., claimant, having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the products be released under bond, conditioned upon the segregation and destruction of the folders.

7908. Misbranding of Nuvim. U. S. v. 9 Jugs of Nuvim and a Number of Circulars. Default decree of condemnation and destruction. (F. D. C. No. 15151. Sample No. 11208-H.)

LIBEL FILED: February 8, 1945, District of Massachusetts.

ALLEGED SHIPMENT: By Nuvi-T-Min, Inc., from Toledo, Ohio. The circulars and the Nuvim were shipped on or about August 15 and December 9, 1944, respectively.

PRODUCT: 9 1-gallon jugs of Nuvim and a supply of circulars entitled "Nuvim Food Minerals and Your Body," at Waltham, Mass. Examination of a sample from this consignment showed that the product consisted of water, with small amounts of sodium sulfate, calcium hydroxide, and phosphates. The product did not contain iron, as stated in the label.

LABEL, IN PART: (Jugs) "Nuvim Artificial Mineral Water."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the following label statement was misleading since it created the impression that the product would supply significant quantities of the minerals named: "Minerals Added, Potassium Diphosphate, Calcium Phosphate, Magnesium Phosphate, Calcium Hydroxide (Lime), Silicon Dioxide, Sodium Phosphate, Potassium Iodide, Zinc Sulphate, Sodium Sulphate, Manganese Chloride, Ferric Phosphate, Cobalt Sulphate, Potassium Chloride"; and this impression was not corrected by the statement appearing on another portion of the label in very small type, "Calcium Hydroxide and Sodium Sulphate predominate in this water. Other elements in minute quantities."

Further misbranding, Section 403 (a), the label designation "Nuvim" and the following statements in the circular entitled "Nuvim Food Minerals and Your Body," which related to and accompanied the product, were false and misleading since the product would not create new vim, as the designation implied, and since it would not be effective in producing the results stated and implied by the labeling: "NUVIM FOOD MINERALS and YOUR BODY EVERY BODILY FUNCTION USES OR DEPENDS UPON FOOD MINERALS 'The Chief Fault of Many American Diets Is That They Provide too LITTLE of the Essential MINERALS * * * 'The ESSENTIAL INORGANIC ELEMENTS That Are None Too Abundantly or Widely Distributed In Ordinary Foods Are Those Most Frequently Involved In DEFICIENCY DISEASES. These Include IRON * * * CALCIUM, and PHOSPHORUS' * * * MINERAL ELEMENTS CERTAIN MINERAL ELEMENTS ARE ESSENTIAL TO NORMAL FUNCTIONING OF THE TISSUES * * * Since many of the foods used in the average diet of a large proportion of the people of this country are low in mineral content due either to being too highly refined and possibly overcooked, or to the fact that the food products have been grown on soil which has had its minerals well exhausted by continued crop growth over many seasons, then the use of NUVIM ARTIFICIAL MINERAL WATER is to be highly recommended in order that the body may be assured of receiving an adequate supply of these vital mineral salts. The body is constantly losing some of each mineral element. It is necessary to replace this loss through diet or by drinking NUVIM MINERAL WATER, or the health of the body will not be maintained. Minerals enter into the composition of every living cell, they determine the vital processes of oxidation, secretion, development, and reproduction. Phosphorus and Iron, indispensable to every active cell, are prominent examples of such controlling elements. ESSENTIAL VITAMINS AND MINERALS PRESENT IN THE ORGANS OF THE BODY HAIR * * * TEETH * * * THROAT * * * LIVER * * * BRAIN * * * EYES * * * COMPLEXION AND SKIN * * * THYROID GLAND * * * CLEAR SKIN COMPLEXION TEETH BONES LIGAMENTS JOINTS NAILS SHAPELINESS HEART PERFECT DIGESTION HAIR EYES PURE BLOOD STEADY NERVES 'It is just a matter of keeping a balance!' GALL BLADDER * * * STOMACH AND DIGESTIVE TRACT * * * INTESTINAL TRACT * * * MUSCLES * * * BONES * * * HEART ADRENAL GLAND * * * KIDNEYS * * * FINGER NAILS * * * BLOOD STREAM * * * VITAL FUNCTIONS OF SOME OF THE MINERALS * * * SULFUR: Acts on the liver, blood vessels and nerve tissues; beautifies the complexion; regulates innervation; is essential to the hair, nails, skin and to the cornea of the eye; purifies and tones the system; warms the skin. Sulfur is vitally necessary to the metabolism of the human system. Certain organic sulfur-containing compounds, which the body must produce from the sulfur present in our diets, are important biologically, e. g. thiocyanate in the saliva and other fluids, taurocholic acid in bile, thionine of the blood corpuscles, and glutathione which is present in every cell of the body and is concerned with oxidation. Sulfur is contained in

thiamine (vitamin B-1). **IRON:** Makes red blood, rosy cheeks and clear complexion; supplies energy and vitality; absorbs and aids in transport of oxygen; nourishes tissues from the blood stream. Iron along with traces of Copper is essential for the production of blood in the body, and for tissue respiration; is necessary to prevent anemia. **PHOSPHORUS:** Acts on the bone and brain; strengthens mental powers; improves the nutrition of nerve tissue, especially heart tissue; agent of life and growth; aids in the growth of hair; is essential to the functioning of certain vitamins in the body. Phosphorus is indispensable for the formation of bones, teeth, nerves and the cells of the brain. Normal amounts of this mineral along with Calcium and Vitamin D are necessary to prevent rickets and other bone diseases. Phosphorus is essential to the metabolism of carbohydrates and fats. **POTASSIUM:** Aids in the digestion of fats; produces alkalinity; stimulates the liver; necessary for growth; has a regulating effect upon the heart and on muscular contractions; its presence in the red blood cells is of vital importance. **CALCIUM:** Builds bones, muscles and teeth; counteracts acid, aids vitality, soothes the nerves and decreases nervousness; stimulates courage; is necessary for the proper functioning of the muscles and in the clotting of blood, thus assisting in preventing hemorrhaging; is required for the normal beating of the heart. **SODIUM:** Checks fermentation; prevents clotting of blood; stimulates the spleen; regulates heat in body fluids; excites the stomach and bowels to greater action; neutralizes acids; helps to maintain osmotic equilibrium in the tissues, and in keeping the proteins of the cells in solution and in the proper degree of dispersion for normal function; protects body tissues against excessive loss of water. **MAGNESIUM:** Promotes cell building in nerve matter; promotes excretions; aids in preventing constipation; is essential for steadying the nerves by depressing nervous irritability; helps to overcome brain fatigue; stimulates the liver and reduces temper; is indispensable for all living cells; is of fundamental importance in the digestion of carbohydrates (starches and sugars) and fats, for muscular action and for yeast fermentation in the body; is known to be required in blood building, and is also essential for the maintenance of healthy teeth. **SILICON:** Protective to skin and body; increases hair growth; aids in regulating enamel on teeth; necessary in the growth of teeth and nails; stimulates the brain; gives grace to the body, sparkle to the eyes; beauty promotor. **CHLORINE:** Helps expel waste; assists in cleansing and purifying the system; is found combined with Sodium in the blood and exercises some influence upon metabolism, and helps to maintain osmotic pressure in blood and tissues; aids in the regulation and stimulation of muscular action; is present in the hydrochloric acid of the gastric juice; aids digestion; activates body enzymes (accelerators of specific functions) and is essential to normal gastric secretion, and to the maintenance of normal heart action. **FLUORINE:** Active in building strength into bone structures; acts strongly on the spleen, teeth, and enamel of teeth; helps to protect us from germs and infections; aids in preserving youthfulness in youth and old age. **IODINE:** * * * aids in overcoming albuminous toxins in blood; stimulates gland and cell action; * * * **MANGANESE:** Acts upon the nerve and brain cells; increases the ability to read small print and to notice objects at a greater distance; strengthens memory; quickens coordination of thought and action; is necessary for reproduction and growth and normal functioning of the human body; gives stability to the bone structure of the body; in some way it controls the body's ability to utilize the vitamin B complex; is one of the minerals necessary in the formation of the colored pigment in hair, and thus required to prevent hair from graying. **ZINC:** Has value in increasing the bodily resistance to tumors; required for tissue respiration (breathing); is also of vital importance in the proper utilization of vitamin B-1 (thiamine chloride) by the human system. It seems that unless there are sufficient amounts of zinc present in the body that intestinal absorption is retarded and the rate of growth decreased. **COBALT:** Required for normal growth, normal appetite and normal skin; assists in increasing the red blood corpuscles; is necessary to prevent scaly skin and muscular degeneration. **COPPER:** One of the minerals required in small amounts by the body in producing the color pigment (melanin) in hair, and thus is necessary to prevent the graying of hair; assists in the using of iron for the formation of hemoglobin of blood; aids tissue respiration; stimulates the growth of red blood cells assisting in the prevention of anemia."

Further misbranding, Section 403 (j), the product purported to be a food for special dietary uses by reason of its calcium, phosphorus, iron, and iodine content, and its label failed to bear a statement, as required by the regulations, of the proportion of the minimum daily requirements for such minerals which

would be supplied by the product when consumed in a specified quantity during the period of 1 day.

DISPOSITION: March 24, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7909. Misbranding of Bro-Sak Cereal Sugars. U. S. v. 98 Cartons of Bro-Sak Cereal Sugars and 1,000 Circulars and 2,000 Leaflets. Default decree of condemnation. Product ordered delivered to a public institution; literature ordered destroyed. (F. D. C. No. 13364. Sample No. 70670-F.)

LIBEL FILED: August 24, 1944, Western District of Washington.

ALLEGED SHIPMENT: By the Bro-Sak Products Co., from New Rochelle, N. Y. The sugars and circulars were shipped on or about April 13, 1944, and the leaflets were received by the consignee on or about May 29, 1944.

PRODUCT: 41 ½-pound cartons, 45 1-pound cartons, 2 2½-pound cartons, and 10 5-pound cartons of Bro-Sak Cereal Sugars, together with 1,000 circulars entitled "Healthful and Exhilarating Uses for Bro-Sak" and 2,000 leaflets entitled "To Health Seekers," at Seattle, Wash.

Analysis showed that the product consisted essentially of corn sugar (dextrose), with small quantities of calcium, magnesium, and sodium compounds, including phosphates and carbonates.

LABEL, IN PART: "Bro-Sak Cereal Sugars Active Ingredients Isomers No. 2-7-10 Sodium Phosphate Magnesium Carbonate Calcium Phosphate."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the labeling statements quoted below were false and misleading since the article was not a natural sugar, but was a mixture of corn sugar with added chemical salts; it could not be used as a substitute for sugar in cases where sugar must be avoided or restricted; and it would not effect the results stated or implied: (Cartons) "'Life Giving Non-Toxic Sugar' A NATURAL FOOD SUGAR * * *"; (circular) "AN 'ALKALINE' INSTEAD OF A 'TOXIC' SUGAR. BRO-SAK is an alkaline sugar—used for all purposes in place of ordinary acid forming sugar. People restricted in the use of refined sugar will find BRO-SAK enjoyable and effective in any form of faulty metabolism: the most prominent of which are—Acidosis, Rheumatism, Overweight, Gall Bladder trouble and Diabetes. * * * It overcomes the acidity in Strawberries enabling people to enjoy this popular fruit with no acid effect because of the alkaline reaction of BRO-SAK. * * * As an alkalizer * * * INSOMNIA OR RESTLESS NIGHTS. Squeeze the juice from a Grape Fruit—then add three or four teaspoonfuls of BRO-SAK. This gives a most soothing effect and will aid in overcoming Insomnia and restless nights"; (leaflet) "'ACID' CONDITIONS ROB YOU OF HEALTH: You must check an over-acid condition for it helps to bring many illnesses. When you are troubled with sour stomach, after-meal heaviness, dizzy spells, nervousness, fitful, unrestful sleep, depressed feeling and bowel sluggishness, these symptoms need your attention, so act promptly. Change to Bro-Sak Alkaline sugar. It is particularly needed in these cases. Bro-Sak has been extremely effective in cases of Diabetes, Overweight, Acidosis, Rheumatism, Gall Bladder trouble and for people who are restricted in the use of refined sugar. You will find Bro-Sak, an alkaline sugar, will help you immeasurably because it differs from ordinary sugar. This change is necessary because of present-day eating habits and the lack of minerals in the same kind of vegetables from different soils. Bro-Sak helps to furnish body minerals which nature is failing to provide. Bro-Sak contains the inorganic 'fixator' necessary for proper body functions which may be likened to the vitamins of the organic kingdom. It also contains the correct amount of Calcium required for the daily diet and is combined with Phosphorus to make these minerals of the greatest value to the body. They should be inseparable. Vitamins to be thoroughly effective must be in combination with minerals, and vitamins should never be taken on an empty stomach. When you start using Bro-Sak you at once reduce the strain from every body organ, conserving oxygen to better oxidize your foods. The oxygen taken into the body during a 24 hour period will oxidize or burn up food of about 2300 calories or heat units. The intake of food should be in about these proportions, Carbohydrate, 5 oz.; Fats, 3½ oz.; and Protein, 5 oz. So instead of feeling dull, gloomy and depressed you feel bright, alert, glad to be alive. Your system absorbs Bro-Sak so quickly and easily that results are speedily apparent. There is no long waiting for these benefits. a. Points to remember: Bro-Sak is strictly a carbohydrate food made from sunlight cereals with essential body minerals in the correct proportion, that neutralize acids and keep the system in a normal alkaline condition; with calcium and phosphorus for bones, teeth and ligaments.

That's why growing children should use Bro-Sak as well as furnishing heat and energy. b. Bro-Sak is absorbed directly in the body without digestive action, reducing strain, creating heat and energy with better functioning of body organs. Elderly people will find this is necessary. It spares precious body oxygen for proper oxidation and besides for the important task of burning up fatty tissues. People gaining weight should use this non-fattening sugar. c. Bro-Sak is easily regulated in the diet as each gram produces 3.755 large calories. d. Bro-Sak should replace Saccharine, A COAL TAR DERIVATIVE which affects the heart and kidneys e. Briefly, Bro-Sak is an alkaline, Non-Toxic, Non-Fattening, Nature-like Sugar, used in the same manner and for the same purposes as ordinary sugar. * * * It was especially produced * * * for its happy effect on the general health of acid-ridden persons. It is helping thousands. Bro-Sak will help you."

Further misbranding, Section 403 (i) (2), the label of the article failed to bear the common or usual name of each ingredient since the label did not reveal the presence of dextrose (corn sugar); and, Section 403 (j), the product purported to be and was represented as a food for special dietary uses by reason of its content of mineral salts, sodium phosphate, magnesium carbonate, and calcium phosphate, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirements of calcium and phosphorus, and the amount of sodium and magnesium, furnished by a specified quantity of the product when consumed during a period of 1 day.

DISPOSITION: May 31, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution. The literature was ordered destroyed.

7910. Misbranding of Bates vitamin preparations. U. S. v. 104 Bottles of Bates Calcium Pantothenate Dextrorotatory, 116 Bottles of Bates Multiple Vitamin Tablets, 32 Bottles of Bates Vitamin A & D, 34 Bottles of Bates Natural B Complex, 20 Bottles of Bates (Nicotinic Acid) Niacin, 20 Bottles of Bates (Thiamin) Vitamin B₁, 20 Bottles of Bates Riboflavin Vitamin B₂ (G), and 20 Bottles of Bates (Ascorbic Acid) Vitamin C. Default decree of condemnation and destruction. (F. D. C. No. 12426. Sample Nos. 60550-F to 60557-F, incl.)

LIBEL FILED: May 24, 1944, Northern District of California.

ALLEGED SHIPMENT: Between the approximate dates of March 31, 1943, and January 17, 1944, by Bates Laboratories, Inc., from Chicago, Ill.

PRODUCT: 366 bottles of the above-named vitamin preparations at San Francisco, Calif.

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the following statements in the labeling were false and misleading since the articles, either singly or in combination, would not fulfill the promises of benefit expressed or implied: (Display card entitled "Vibrant Health and Beauty!") "We feature the complete line of BATES VITAMIN Products * * * Why You Need Vitamins! VITAMIN B₁ for Loss of Weight for Loss of Appetite Nervous Disorders NIACIN for * * * Skin Troubles VITAMIN A & D for Bones and Teeth Normal Growth Normal Vision and Resistance B COMPLEX * * * for General Health Proper Nutrition * * * VITAMIN B₂ (G) for Proper Nutrition Certain Skin Disorders VITAMIN C for Bleeding Gums Nutritional Disorders Certain Conditions of Anemia CALCIUM PANTOTHENATE * * * for The B Complex Factor So Favorably Reported In The Good Housekeeping Gray Hair Studies * * *"; (display banner entitled "We Feature the Complete Line of Bates Vitamin Products") "NIACIN FOR—Loss of Weight Skin Troubles * * * VITAMIN B₁ FOR—Loss of Appetite Nervous Disorders Indigestion * * * VITAMIN B₂ (G) FOR—General Vigor Resistance to Many Infectious Diseases VITAMIN A & D FOR—Strong Bones and Teeth Normal Growth Normal Vision Calcium Pantothenate * * * FOR—Gray Hair Skin Pigmentation Nail Brittleness * * * NATURAL B COMPLEX FOR—General Health Nervousness Lack of Appetite VITAMIN C FOR—Nutritional Disorders Bleeding Gums Anemia * * *"; (placard entitled "Bates Anti-Grey Hair Vitamins") "* * * TESTS SHOW THAT EVIDENCE OF THE RETURN of natural hair color requires from 30 days to six months. TESTS REVEAL THAT 88% OF MEN AND WOMEN tested showed evidence of the return of their natural hair color. * * * Color appears near the roots of the hair. Time must be allowed for the return of the natural hair color as fast as the growth of the hair. CALCIUM—PANTOTHENATE * * * A FOOD VITAMIN! * * *"; (leaflet entitled "Bates Line of Vitamins") "* * * Without Nicotinic Acid there is a tendency to

lose weight, general weakness, skin eruptions, and loss of appetite. * * * VITAMIN B₁ stimulates the appetite, aids in the digestion and utilization of food * * * RIBOFLAVIN, otherwise known as Vitamin G or B₂, aids in promoting bodily vigor, preserves a healthy condition of the skin and hair, and increases resistance to certain infections. * * * VITAMIN A promotes normal vision, growth, and maintains general health, the lack of which causes general weakening of the body in adults, night blindness, impaired reproduction and lactation, and atrophy of glands. VITAMIN D is essential for formation of strong bones and teeth and helps in preventing teeth decay. * * * THE ANTI GRAY HAIR VITAMIN CALCIUM PANTHOTENATE * * * In recent tests made by a well-known research laboratory it has been found to be 88% effective in restoring gray hair to its natural color. However, this experiment showed that results were evident in these 88% in from thirty days to six months. It is also believed that it affects the pigmentation of the skin, and brittleness of the nails. * * * The use of Vitamin B Complex has shown satisfactory results in constipation, abdominal distress, gas, nausea, headache, nervousness, and asthenia. * * * Vitamin C maintains connected tissue * * * A lack of Vitamin C results in spongy and bleeding gums, affected teeth, anemia, damage to heart muscles, loss of weight and retarded growth * * *."

Further misbranding, Bates Natural B Complex, Section 403 (j), the product purported to be and was represented as a food for special dietary uses by man by reason of its vitamin content, and its label failed to bear, as required by the regulations, the statement, "The need for Vitamin B₆, pantothenic acid, and all other factors of the B complex as found in dry brewer's yeast (except thiamine, riboflavin, and niacin) in human nutrition has not been established."

The articles were also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices. DISPOSITION: October 2, 1944. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

7911. Adulteration and misbranding of Walban Vitamin B Complex and misbranding of Walban A, B₁, D, G (B₂) Vitamin Pearls. U. S. v. 35 Display Units of Walban Vitamin B Complex and 23 Display Units of Walban A, B₁, D, G, (B₂) Vitamin Pearls. Default decrees of condemnation. Products ordered delivered to charitable institutions. (F. D. C. Nos. 13777, 13778. Sample Nos. 80616-F, 80617-F.)

LIBELS FILED: September 11, 1944, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about May 31, 1944, by the Walban Corporation, from Little Neck, Long Island, N. Y.

PRODUCT: 35 display units, each containing 12 packages of 30 pearls each, of Walban Vitamin B Complex, and 23 display units, each containing 12 packages of 30 pearls each, of Walban A, B₁, D, G (B₂) Vitamin Pearls, at St. Louis, Mo.

Examination of a sample of the Vitamin B Complex showed that the article contained approximately one-half of the declared amount of vitamin B₁.

LABEL, IN PART: "Walban Vitamin B Complex 333 U. S. P. Units Vitamin B₁," or "Walban A, B₁, D, G (B₂) Vitamin Pearls."

VIOLATIONS CHARGED: Vitamin B Complex, adulteration, Section 402 (b) (1), a valuable constituent, vitamin B₁, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statements, "Each contains not less than: 333 U. S. P. Units Vitamin B₁," and "Each Pearl contains full adult minimum requirement of Vitamin B₁ (thiamin Chloride)," were false, since the article would only supply approximately 167 U. S. P. units of vitamin B₁ and one-half the adult minimum requirement; and, Section 403 (a), [and Section 502 (a)], the labeling statements quoted below were false and misleading since consumers of the article could not reasonably expect freedom from the diseases and abnormalities mentioned, a deficiency of riboflavin does not cause pellagra, pyrodoxine is not known to be essential in human nutrition, the article would not supply significant amounts of vitamins derived from liver and yeast, fish liver oils are not the principal sources of vitamins A and D, and the benefits of obtaining adequate vitamin intake would not result from consumption of the article: (Display flyer) "you need WALBAN VITAMIN B COMPLEX PEARLS for VIM. VIGOR. VITALITY * * *"; (leaflet entitled "Walban B Complex Pearls") "* * * deficiencies often result in failure to maintain good health, bacterial infections, poor appetite, faulty metabolism, etc. * * * It stimulates the metabolic processes and prevents such manifestations as nervous dyspepsia. * * * a loss of appetite, loss of weight and

vigor, impairment of the digestive processes, subnormal temperature, fatigue, etc. * * * This vitamin prevents pellagra and promotes healthy skin tissues. * * * alimentary disturbances, thickening of the skin, soreness and inflammation of the tongue and mouth. * * * plays an important part in keeping the skin in good condition. * * * some evidence that it is necessary to prevent rigidity and weakness of the muscles. No minimum requirements have as yet been established, but this vitamin is known to play an important part in human nutrition. * * * but as with pyridoxine the minimum daily requirement has not as yet been established. * * * Other components of this B Complex group of vitamins natural to liver and yeast are also in the Walban B Complex Pearls so that this product furnishes a quick and simple way to procure the vitamins in this B group as a supplement to the normal daily diet. * * * These two vitamins are mainly found in fish oils. * * * protects against infections of the respiratory tract and deficiencies result in colds, bronchitis, and diseases of the sinus and ears in addition to other manifestations. * * * the growth vitamin * * * general muscular weakness and defects of the teeth such as softness of structure and susceptibility to decay and caries. * * * NOW THE ENTIRE FAMILY CAN GET THE BENEFIT OF VITAMINS AT A LOW COST * * *."

Walban A, B₁, D, G (B₂) Vitamin Pearls, misbranding, Section 403 (a), the labeling statements quoted below were false and misleading since the vitamins supplied by the article are not usually deficient in the normal diet, it is not difficult to obtain adequate amounts of vitamins from common foods, the only important sources of vitamins are not such substances as cod or other fish liver oils, wheat germ, and yeast, and use of the article would not prevent or correct the diseases, symptoms, and conditions mentioned, and would not insure health and the results of adequate vitamin intake: (Folder enclosed in retail package entitled "Walban A. B. D. G. Vitamin Pearls") "* * * VITAMIN A * * * as much vitamin A as is found in 3 quarts of milk [Picture of three bottles of milk] VITAMIN B₁ * * * Each Walban Pearl contains as much of this valuable vitamin as is found in 1½ lbs. of lean beef [Picture of beef] VITAMIN D * * * Each Walban Pearl contains as much of this vitamin as is * * * in 5 dozen eggs [Picture of eggs] VITAMIN G (b₂) * * * as much of this valuable vitamin as is found in two 10 oz. loaves of whole wheat bread [Picture of two loaves of bread] * * * Full Vitamin Insurance * * * a necessary supplement to the diet. * * * a high potency vitamin capsule * * *"; (poster) "* * * Each Walban A. B. D. G. Vitamin Pearl contains as much Vitamin A as is generally found in 3 quarts of milk [Picture of three bottles of milk] Plus as much Vitamin B as is generally found in 1½ lbs. of lean beef [Picture of beef] Plus as much Vitamin D as is generally found in 5 dozen eggs [Picture of eggs] Plus as much Vitamin G (B₂) as is generally found in 20 ozs. Whole Wheat Bread. [Picture of two loaves of bread]"; (circular entitled "Vitamins One of Science's greatest discoveries") "* * * to build up resistance against diseases, to maintain health and normal growth. Lack of these essential vitamins brings fatigue, premature old age, skin diseases, intestinal ailments, nervous indigestion and lowered resistance. * * * Who needs vitamins? The great majority of Americans are not getting a sufficient supply of these essential food elements. The small quantities of vitamins that exist in many foods are too frequently destroyed by modern cooking processes. This national deficiency in vitamins has been recognized by all public and medical authorities and that is why so many articles on the importance of vitamins are constantly appearing in newspapers and magazines. * * * What are the important vitamins? Among the vitamins you need and which few are getting in sufficient quantities are the vitamins A, B₁, D, and G. * * * Vitamin A? The most important source of this vitamin is cod liver oil and other fish oils. This vitamin promotes growth, appetite, and digestion. It protects against infections of the respiratory tract and builds a natural resistance to colds, bronchitis, and diseases of the sinus, ears, alimentary tract, kidney and bladder. * * * What is Vitamin B₁? The most important source of this vitamin is wheat germ and yeast. It promotes the appetite and digestion. It protects the body from nervous diseases. * * * Vitamin G? * * * This is the growth vitamin and is essential for the proper growth and development of the body. * * * How can you get these four essential vitamins? * * * surest way to insure a daily intake of these four vitamins is by taking one Walban Pearl each day. * * * One Walban Pearl each day gives you a WELL-BALANCED VITAMIN INTAKE. * * * Should everyone in the family take Walban Pearls? Yes. The chances are that everyone in the family from children to adults are not getting

nearly enough of these four vitamins in the daily diet. Investigations among thousands of families prove this. Each member of the family can be insured against these vitamin deficiencies and the sufferings these deficiencies bring about by taking one Walban Pearl a day. This is the cheapest form of health insurance. * * * The Cheapest Form of Health Insurance. Now the Entire Family Can Get the Benefit of Vitamins at a Low Cost * * *."

Further misbranding, Vitamin B Complex and Vitamin Pearls, Section 403 (f), the information required by Section 403 (j) was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices on the label) as to render it likely to be read by the ordinary individual under customary conditions of purchase, since it appeared on the bottom of the package.

The articles were also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in the notices of judgment on drugs and devices.

DISPOSITION: December 2 and 15, 1944. No claimant having appeared, judgments of condemnation were entered and the products were ordered delivered to charitable institutions, after destruction of the leaflets, circulars, and display posters.

7912. Misbranding of Fruitonya, Protecto, and Neutratoe. U. S. v. 12 Bottles of Fruitonya, 28 Bottles Protecto, and 27 Canisters of Neutratoe. Default decree of condemnation and destruction. (F. D. C. No. 15265. Sample Nos. 11106-H to 11108-H, incl.)

LIBEL FILED: February 12, 1945, District of Massachusetts.

ALLEGED SHIPMENT: On or about December 28, 1944, by the Miracle Health Food Co., from Philadelphia, Pa.

PRODUCT: 12 quart bottles of Fruitonya, 28 pint bottles of Protecto, and 27 13-ounce canisters of Neutratoe, at Reading, Mass.

LABEL, IN PART: "Fruitonya The Drink Divine * * * Contains invert sugar, True fruit extracts, Reinforced with Natural flavors & fruit acids," "Protecto A Biological Product * * * Contains Milk Whey Powder, Malt Sugar 200,000,000 of Acidurid Bacteria per 1 C. C." or "Neutratoe An Anti-Acid Food Contains Lactose, Skimmed Milk, Dicalcium phosphate, Irradiated Milk, Whey Powder."

VIOLATION CHARGED: Misbranding, Section 403 (a). The following and similar statements in the labeling were false and misleading since the articles would not be effective to fulfill the promises of benefit stated and implied: (Fruitonya label) " * * * MIRACLE FOOD CO. * * * It is invigorating, and stimulating but * * * Whereas plain water is almost harmful because of the chlorine and acids it contains, Fruitonya helps to neutralize the acids while it brings to your body a beverage that energizes. * * * you are tired drink a glass or two before you eat * * * "; (circular entitled "Invest in Good Health") "Invest in Good Health IT WILL PAY YOU FUTURE DIVIDENDS Every day the newspapers report the death of some noted individual who died suddenly from some ailment. Hardly ever do we read of men and women passing away from old age—usually their life span is shortened by some unseen cause that caught them unaware. The reason is that everyone possesses some weak organ and does nothing to rebuild it. Statistics show that heart trouble, cancer, pneumonia, bright's disease, diabetes and every other organic ailment is on the increase. In the past, men and women died from infectious diseases due to unclean drinking water, cess pools and poor sanitation. These have been eliminated, but organic degenerations are on the increase. The greatest surprise was that Mayor Cermak, of Chicago, did not die from the bullet wound but he passed away from colitis. It is now recognized that most ailments are amenable to right eating—that is, if proper foods are used, every organ, no matter how bad it may be, can be helped to some degree. For instance, if two-thirds of a lung is destroyed, the other third (that is usually in poor condition) can be rebuilt with the proper foods. The same applies to every organ in the body. Nerve tissues, which are the hardest to rebuild, have been almost regenerated with the proper treatments and the proper foods. Even if an operation is necessary the chances are always in favor of the individual whose blood stream is cleaner, whose cells are finer, and whose glands are more active, due to the fact that the food they ate kept their bodies in good condition even though there was an organ that had gone pathologically bad. Some day we will be able to observe the beginning of these pathological degenerations when they start in childhood, and stop them from becoming chronic.

If you are one of the few who has awakened to the fact that foods contain in the last analysis the medicines that rebuild the body, or if perchance you are one of the many who has not as yet learned that what we eat today will make you better fitted for tomorrow, then we wish to call your attention to our health foods. * * * **THE DRINK DIVINE** Did you know that water has no cleansing value, only flushing power. Try to wash your hands in water without soap, and notice how difficult it is to get them clean. When the body is toxic water has no effect whatsoever unless you add to it something that will cleanse every cell in your body, while the water passes through it. **FRUITONYA** contains various concentrated fruit juices, and fruit acids. It is the most delicious and refreshing beverage you have ever tasted. It not only cleanses the body but feeds it as well with nourishing cell foods"; (Protecto, from label) "**PROTECTO** * * * For Combating Intestinal Bacteria * * * **MIRACLE FOOD CO.** * * * Protecto assists Nature in destroying harmful Germs. * * *"; (circular entitled "Invest in Good Health") " * * * **THIRTY FEET OF DANGER** For thousands of years the human race suffered from epidemics that destroyed the lives of millions of people and baffled the philosophical world. Some thought that these epidemics were due to God's vengeance, and others thought that they were brought on by evil spirits; but scientists, at last, discovered that these epidemics were due to the unsanitary conditions of the cesspools, swamps and rivers which were loaded with invisible germs, that destroyed many people throughout Europe. Hidden away in the abdominal cavity of every person is a tube thirty feet long which is also a menace to most people. In this tube (the gastro intestinal tube) there are kinks and pockets in which the food ferments and putrifies. The toxins and the germs that breed in the colon sweep through the body and damage organs that are already suffering from some physical liability. Every person, no matter how often his bowels may move, has some putrid matter in some intestinal pocket that places a mortgage on an organ that is already pleading for aid. Doctors state a putrefactive colon destroys many of the vitamins. **PROTECT YOUR BODY WITH PROTECTO** Protecto is an aciduric culture rich in the *Acidophilus* Bacteria and the *Bulgaricus* Bacteria which are found in the healthy colon. These *Lactobacilli* rid the body of the toxins and the putrefactive bacteria that are so harmful to the cells of the body. * * *"; (circular entitled "Thirty Feet of Danger") "Noted physicians such as Kellogg, Lindlahr, Lane, Hays and others have called attention to the fact that Auto-Intoxication is the most exciting cause in undermining the health of most people"; (**Neutratone** label) "**NEUTRATONE** An Anti-Acid Food * * * **MIRACLE FOOD CO.** * * * **NEUTRATONE** Neutratone is an anti-acid product. It is claimed by most physicians that most ailments come from an acid condition. Baking soda, magnesia and other drugs will neutralize the acids in the stomach but not in the body and being a drug will eventually cause a harmful reaction. Neutratone is a food containing no drug whatsoever, and is assimilated by every cell in the body"; (circular entitled "Invest in Good Health") " * * * **KEEP YOUR BODY ALKALINE** **NEUTRATONE** is an anti-acid food that does not contain any starches, dextrins, baking soda, magnesia or any synthetic drug. * * * Do not confuse Neutratone with an anti-acid medicine. Neutratone alkalizes the entire body whereas an anti-acid merely acts on the hydrochloric acid in the stomach—which is a wrong procedure. **NEUTRATONE.**"

DISPOSITION: April 16, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

7913. Adulteration and misbranding of Battle Creek Multi-Vitamin and Mineral Tablets, and misbranding of LD-Lax, Food Ferrin, Kaba, Lacto-Dextrin, and ZO. U. S. v. 44 Cans and 26 Cans of LD-Lax (and 5 other seizure actions against dietary foods.) Default decrees of condemnation and destruction. (F. D. C. No. 12107. Sample Nos. 39180-F to 39185-F, incl.)

LIBELS FILED: April 13, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: Between the approximate dates of July 22, 1943, and January 31, 1944, from Battle Creek, Mich., by the Battle Creek Food Co.

PRODUCT: 44 cans, each containing 10 ounces, and 26 cans, each containing 3 pounds, of LD-Lax; 93 bottles (various sizes) of Multi-Vitamin and Mineral Tablets; 13 jars of Food Ferrin; 5 cartons of Kaba; 51 1-pound packages and 19 5-pound packages of Lacto-Dextrin; and 69 packages of ZO, at Chicago, Ill.

Examination disclosed that the LD-Lax consisted essentially of the mucilaginous portion of psyllium seed, milk sugar (33.2 percent), dextrins (8.0 per-

cent), soybean flour, and flavoring material. The Multi-Vitamin and Mineral Tablets contained vitamins, including thiamine, riboflavin, carotene, and vitamin D, and compounds of calcium, phosphorus, and iron, the phosphorus content amounting to 361 milligrams and the iron to 7.5 milligrams in 9 tablets. The Food Ferrin yielded 1.34 percent of ash (total mineral matter), and 1 tablespoonful of the preparation weighed approximately 16 grams and contained approximately 16 milligrams of iron. The Kaba consisted essentially of a gum, milk sugar, starch, yeast, and salt. The Lacto-Dextrin consisted essentially of milk sugar (approximately 80.5 percent) and dextrin (approximately 18.6 percent). The ZO contained, per ounce, 17.6 milligrams of calcium, 109.7 milligrams of phosphorus, 1.3 milligrams of iron, carotene (pro-vitamin A), and vitamin D.

VIOLATIONS CHARGED: LD-Lax, misbranding, Section 403 (a). The labeling statements quoted below created the false and misleading impression that the amounts of lactose and dextrin which would be supplied by the article when consumed as directed would supply the intestinal flora with a significant quantity of carbohydrates, would combat intestinal putrefaction, would be of value in a weight-reducing program and in the treatment of high blood pressure, and would be effective for hyperacidity: (Leaflet entitled "LD-Lax") "* * * LD-LAX Helps Suppress Putrefactive Bacterial Activity * * * LD-LAX contains lactose and dextrans. These carbohydrates reach the colon in sufficient quantity to help effect a change in the activity of bacteria which are always present therein. When ample available carbohydrates are present in the colon, bacteria which may be essentially putrefactive in their activity will then derive their energy from the carbohydrates and the putrefaction of protein residues becomes greatly diminished"; (leaflet entitled "You too can Reduce") "* * * It is desirable to keep the bowels open freely while reducing * * * If you are troubled with constipation do not resort to distressing, irritating drug laxatives. Use LD-LAX * * * "; (leaflet entitled "Diet Suggestions for High Blood Pressure") " * * * If your physician has eliminated meat, fish, fowl, eggs and stimulating beverages from your diet, you will find our menus for reducing high blood pressure especially helpful. * * * Very often there are definite toxic symptoms, such as coated tongue and gas formation. In such cases Lacto-Dextrin is added to the diet. * * * In stubborn cases of constipation Lacto-Dextrin should be accompanied by a bulk-supplying product such as LD-Lax * * * Battle Creek Special Purpose Foods Suitable for High Blood Pressure * * * For bulk: LD-Lax * * * "; (booklet entitled "Healthful Living," page 49) " * * * LD-Lax * * * contains lactose and dextrans which help supply the intestinal flora with carbohydrates and thus tend to combat excessive putrefaction * * * "; (leaflet entitled "Plan Your Meals for Health") " * * * FOODS FOR HYPER-ACIDITY (ACID STOMACH) DIETS * * * LD-LAX * * * ."

Multi-Vitamin and Mineral Tablets, adulteration, Section 402 (b) (1), valuable constituents, phosphorus and iron, had been in part omitted from the article.

Misbranding, Section 403 (a), the statements in the labeling which represented and suggested that the article contained 10 milligrams of iron and 414 milligrams of phosphorus in 9 tablets, and that 9 tablets would supply 100 percent of the daily minimum requirements for iron and 55 percent of the daily minimum requirements for phosphorus, were false and misleading since the article contained less than the declared amounts of iron and phosphorus, and would not, when used as directed, supply the minimum daily requirements for these elements or the stated proportions. Further misbranding, Section 403 (a), the following and similar statements in the labeling created the false and misleading impression that it is not practicable to obtain the necessary vitamins and minerals from ordinary foods; and that the article would be effective to keep a person healthy, would lengthen the life span, and would otherwise fulfill the promises of benefits stated and implied: (Leaflet entitled "A HEALTH-AID for Your Entire Family") "* * * HEALTH-AID for Your Entire Family * * * The Health and Vitality of every member of your family calls for at least a Minimum Daily Requirement of Vitamins and Minerals * * * While these elements are found in foods, it frequently occurs that through improper choice of the dietary, vitamin and mineral deficiencies occur. To insure against such a condition, concentrated sources of vitamins and minerals can be used with profit by many people. Battle Creek Multi Vitamin and Mineral Tablets are an Easy Way to make Sure * * * The Relation of VITAMINS to certain body needs . . . A This vita-

min is necessary to maintain good vision under conditions of reduced illumination. A deficiency produces 'night blindness' (inability to see at night or in a dim light). It helps to maintain the integrity of the mucous membrane and of the skin. B₁ (Thiamin). This important member of the B complex group is called the anti-neuritic vitamin because a deficiency causes certain nervous disorders. It aids in maintaining normal appetite, healthy nerve tissue, normal growth and promotes the utilization of carbohydrate foods. C (Ascorbic Acid). * * * A lack of it contributes to bleeding gums, dental caries, secondary anemia, and predisposes to infection. D * * * It * * * promotes normal growth. * * * Riboflavin B₂ or G * * * It is the growth promoting vitamin * * * The Relation of MINERALS to certain body needs . . . CALCIUM. Makes sturdy bones and hard teeth. It is essential to normal growth. * * * IRON. Necessary for rich red blood. Without sufficient iron, a person becomes anemic. * * * IODINE. Needed for proper glandular function, especially the thyroid. * * * PHOSPHORUS. Also needed in bone and tooth structure. It is an essential constituent of the fluid and cells of body tissue. * * * MAGNESIUM. An essential constituent of bones and teeth * * * COPPER. * * * Its presence is necessary for the synthesis of hemoglobin. * * * The TRIPOD of HEALTH 'Whatever else you may do for robust health and to lengthen your days, these things are necessary: an adequacy of all the essential vitamins and minerals * * *' * * * Whether you wish * * * to eat good food for health's sake, you will find Battle Creek Special Purpose Foods will help you * * *'; (booklet entitled "Healthful Living," page 61) " * * * Aid to Healthful Living MULTI VITAMIN AND MINERAL TABLETS * * * Vitamins and minerals are definitely needed for good health"; (leaflet entitled "Plan Your Meals for Health") "Foods for Well Folks to Help Keep Them Well * * * Multi Vitamin Mineral Tablets * * * Protective Foods * * * Vitamin A Necessary for Growth * * * Helps keep skin healthy. * * * Sources Multi-Vitamin & Mineral Tablets * * * Vitamin B₁ Necessary for Nerve Nutrition. Stimulates appetite, aids digestion, promotes intestinal health * * * Sources * * * Multi-Vitamin & Mineral Tablets * * * Riboflavin Necessary for Normal Growth. Prolongs active life span. Prevents Cheilosis * * * Sources Multi-Vitamin & Mineral Tablets * * * Vitamin C Needed for Healthy Bones, Teeth and Gums, Normal Glands * * * Sources Multi-Vitamin & Mineral Tablets * * * Repair Foods and Regulating Foods Calcium Builds Strong Bones and Teeth. Coagulation of Blood. * * * Multi-Vitamin & Mineral Tablets * * * Iodine Essential for Normal Glandular Development and Maintenance Sources Multi-Vitamin & Mineral Tablets * * *."

Food Ferrin, misbranding, Section 403 (a), the following and similar statements in the labeling were false and misleading since ordinary foodstuffs do provide the body with ample supplies of iron; the article, when taken in accordance with the directions on the package, would not supply sufficient iron to constitute an adequate treatment in iron-deficiency conditions; its iron content was not more readily available than iron in common foods; and it would not fulfill the promises of benefit implied: (Circular entitled "Do you need IRON?") " * * * PROOF that FOOD FERRIN BUILDS UP HEMOGLOBIN [Graphs accompanied by following legend] * * * The above graphs show how rapidly animals recovered from an anemic condition when Food Ferrin was used as the sole source of iron in the diet. Many years of use by thousands of individuals have demonstrated that Food Ferrin can accomplish the same rapid improvement for human beings. * * * if you're like many people, you find it hard to eat enough of these blood-building foodstuffs to get the amount of 'food-iron' and other minerals necessary for robust health. That's why you need a CONCENTRATED, mineral-rich food like Food Ferrin to round out your diet and encourage the growth of new, vigorous red blood. * * * FAGGED OUT? NEVER HUNGRY? TRY FOOD FERRIN FOOD FERRIN is a scientifically concentrated food rich in available organic minerals * * *"; (circular entitled "NO MORE 'MENU MONOTONY'") " * * * Battle Creek Ferrin supplies assimilable iron in combination with other valuable minerals. Clinical tests have proved its efficacy in increasing the hemoglobin of the blood * * *"; (booklet entitled "Healthful Living," page 58) "FOOD FERRIN All the protective factors—vitamins and minerals—are equally as important to proper diet, because a deficiency in any one of them will cause some form of malnutrition. However, certain factors assume a special importance because of the fact that many ordinary diets are more liable to be deficient with respect to them. For

this reason iron is a most important mineral. * * * Many foods are rich in iron, but with a number of foods the iron is in such form that the body cannot absorb it. Mere knowledge of the gross amount of iron in the diet, therefore, is no assurance that the body is receiving a sufficiency of this element. Iron, to be of benefit to the body, must be in an 'available' form. Food Ferrin provides iron in a highly available form. * * * Food Ferrin * * * is most effective in true conditions of nutritional anemia. * * * Food Ferrin has been especially prepared for those who suffer from nutritional, or dietary iron-deficiency anemia. Such anemia readily responds to the proper use of Food Ferrin. This product has been constantly improved in our laboratories and supplies needed iron, for blood-building, in highly available form * * *."

Kaba, misbranding, Section 403 (a), the following statements in the labeling were false and misleading since use of the article would not cause regularity of the bowels, would not help to re-educate the constipated colon, would not serve as a treatment for colitis, would not keep one feeling "in the pink," would not remedy a furry tongue, foul breath, "loggy" head, or a tight, "unnatural" feeling in the abdomen, and would not cause reduction in weight: (Leaflet entitled "Kaba") "* * * KABA for regularity Yes, KABA helps you to be regular, because KABA helps re-educate the constipated colon. * * * let KABA help you back to regularity * * * [Two designs of the colon accompanied by the legends "One-a-day constipation" and "Colitis"] That 'in the Pink' Feeling There is probably no greater enemy of that grand 'in the pink' feeling than faulty elimination. When faulty elimination makes your tongue furry, the breath foul, the head 'loggy', and you get that tight, 'unnatural' feeling in the abdomen, you really want to do something about it. * * * Faulty elimination frequently becomes chronic and then you are in for whole series of 'off days.' * * * TAKE KABA * * *"; (leaflet entitled "You too can Reduce") "* * * Follow the Drugless Battle Creek Reducing Schedule * * * LOSE FIVE TO FIFTY POUNDS EASILY Use these low calorie BATTLE CREEK SANITARIUM FOODS to reduce * * * KABA * * * Food value: 11 calories per teaspoonful * * *."

Lacto-Dextrin, misbranding, Section 403 (a), the statement on the label of the article, "means of * * * promotion of the growth of protective organisms," was false and misleading since the article would not promote the growth of protective organisms. Further misbranding, Section 403 (a), the following statements in the labeling were false and misleading since the article would not fulfill the promises of benefit implied: (Circular entitled "Tired?") "TIRED? FEEL SLUGGISH UNDER PAR? THEN READ ABOUT . . . LACTO-DEXTRIN * * * WHAT A FAMOUS DOCTOR SAYS ABOUT—Excessive Intestinal Putrefaction—If you have a coated tongue, foul breath and dull headaches . . . if you are easily fatigued or feel tired, listless and under par most of the time . . . if you have sought advice and have been told that there is no apparent cause for your condition . . . if you have taken different prescriptions and tonics, EVEN resorted to a variety of laxatives, with little or no relief, then do this. Be guided by a well known doctor, head of a famous sanitarium who advises you to try LACTO-DEXTRIN. * * * ADMIRAL BYRD STRONGLY ENDORSES LACTO-DEXTRIN The hardships and meager diet imposed on Admiral Byrd during his stay at the South Pole led to symptoms of excessive intestinal putrefaction—headaches, lassitude, foul breath, etc. LACTO-DEXTRIN gave Admiral Byrd so much help that he now recommends it strongly to everyone who experiences similar symptoms"; (booklet entitled "Healthful Living," pages 45 and 46) "* * * Putrefaction * * * goes on in the colon when putrefaction becomes excessive, medical authorities agree that it is sometimes associated with a condition known as 'malaise,' characterized by headaches, pains, etc. * * * When such conditions obtain, it is desirable to furnish the flora in the colon with carbohydrate food * * * Lacto-Dextrin contains * * * lactose * * * in combination with dextrans * * *"; (leaflet entitled "Diet Suggestions for High Blood Pressure") "* * * The suggestions offered in this leaflet are the outgrowth of years of careful study and successful experimentation on the part of Battle Creek Diet Specialists. * * * These menus measure up to the Nutrition Yardstick of the National Research Council. * * * The Diet for High Blood Pressure In many cases it has been found that the change from a heavy, rich diet to a simple well balanced bill of fare, free from stimulating foods, is effective in reducing high blood pressure. If your physician has eliminated meat, fish, fowl, eggs and stimulating beverages from your diet, you will find our menus for reducing high blood pressure especially helpful. * * * Very often there are definite

toxic symptoms, such as coated tongue and gas formation. In such cases Lacto-Dextrin is added to the diet. It * * * aids in eliminating the toxins present. In stubborn cases of constipation Lacto-Dextrin should be accompanied by a bulk-supplying product * * * Constipation and its toxic effects are avoided by using Lacto-Dextrin * * * Use Lacto-Dextrin and LD-Lax * * * to help keep free from constipation and toxic symptoms, such as gas formation, coated tongue, bad breath, malaise and inability to concentrate."

ZO, misbranding, Section 403 (a), the statements in the labeling of the article, "Breakfast Food with Vitamins. To each ounce of 'Zo' has been added 150 U. S. P. units Pro-vitamin A (Carotene)," "'Zo' . . . Through the scientific blending of choice cereal products and soy beans with the addition of vitamins A and D," and "'Zo' Contains Added Vitamins . . . 'Zo' is enriched with Pro-Vitamin A (Carotene)," were misleading in the absence of a statement of the material fact that the amount of pro-vitamin A (carotene) supplied by the article was so small as to be essentially inconsequential; Section 403 (f), the statement of the proportion of the minimum daily requirement of vitamin D supplied by the article was not prominently placed on the label with such conspicuousness (as compared with other words and designs in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use, since the statement, ". . . Vitamins have been added so that one ounce supplies . . . 37.5% of the minimum daily requirement of Vitamin D for any person," was relatively inconspicuously placed on a side panel of the label and did not appear under the principal display panel.

Further misbranding of ZO, Section 403 (a), the following statements in the labeling created the false and misleading impression that the article had special energy-producing properties not possessed by ordinary foods; that it would provide significant amounts of pro-vitamin A (carotene), iron, and calcium; that it would provide all the essential food elements in significant proportions; and that it would be efficacious to fulfill the other promises of benefit stated and implied: (Booklet entitled "2 Delicious Cereals") "* * * 'ZO' * * * Developed by a great diet expert and physician * * * energy-producing food * * * 'ZO' CONTAINS ADDED VITAMINS 'ZO' is enriched with Pro-Vitamin A (Carotene) * * * 'ZO' PROVIDES FOOD-ENERGY The rush activities of the morning hours demand plenty of energy. The body should have food which is * * * quickly converted into energy. 'ZO' contains important carbohydrates in such form as to supply the energy demands easily and quickly. * * * It * * * makes important contributions to the need of calcium * * * and iron * * * well-balanced * * * food"; (leaflet entitled "Diet Suggestions for High Blood Pressure") "* * * The suggestions offered in this leaflet are the outgrowth of years of careful study and successful experimentation on the part of Battle Creek Diet Specialists. * * * These menus measure up to the Nutrition Yardstick of the National Research Council. * * * THE DIET FOR HIGH BLOOD PRESSURE In many cases it has been found that the change from a heavy, rich diet to a simple well balanced bill of fare, free from stimulating foods, is effective in reducing high blood pressure. If your physician has eliminated meat, fish, fowl, eggs and stimulating beverages from your diet, you will find our menus for reducing high blood pressure especially helpful. * * * Suggested Menus Breakfast * * * 'ZO'"; (leaflet entitled "Plan Your Meals For Health") "* * * FOODS FOR WELL FOLKS TO HELP KEEP THEM WELL * * * 'ZO' * * * FOODS HIGH IN IRON FOR BLOOD BUILDING * * * 'ZO' * * * PLAN YOUR MEALS FOR HEALTH * * * Protective Foods Vitamin A Necessary for Growth. Prevents Night Blindness and Xerophthalmia. Helps keep skin healthy. * * * Sources * * * 'ZO' Vitamin B₁ Necessary for Nerve Nutrition, Stimulates appetite, aids digestion, promotes intestinal health * * * Sources * * * 'ZO' * * * Repair Foods and Regulating Foods * * * Iron for Hemoglobin Formation. Tissue. Respiration Sources * * * 'ZO' * * *."

The Food Ferrin, Kaba, and Lacto-Dextrin were also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1279.

DISPOSITION: June 7, 1944. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

7914. Adulteration and misbranding of Major Brand B-Complex Vitamin Tablets. U. S. v. 15 Cases of Major Brand B-Complex Vitamin Tablets. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 14398. Sample No. 80439-F.)

LIBEL FILED: November 8, 1944, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about July 24 and September 13, 1944, from New York, N. Y., by Major Vitamins, Inc.

PRODUCT: 15 cases of the above-named product at St. Louis, Mo.

Examination of samples showed that the article contained 0.16 milligram of vitamin B₁, 0.22 milligram of nicotinic acid, and 0.162 milligram of riboflavin per tablet.

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the following statements on the label were false and misleading: "Each Tablet Thiamine (Vitamin B₁) Milligrams .333 Micrograms 333 (3 Tablets) Micrograms 1000. * * * 3 Major B-Complex Tablets daily provide the minimum daily adult requirement of thiamine (Vitamin B₁)." The article did not contain in each tablet the stated amount of vitamin B₁, and it did not provide in 3 tablets the minimum daily adult requirement of thiamine. Further misbranding, Section 403 (a), the designation, "B Complex * * * Tablets," in the labeling, was misleading as applied to the article, which supplied a nutritionally inconsequential amount of niacin, one of the vitamins of the B complex, the need for which in human nutrition is established.

Further misbranding, Section 403 (a), the following and similar statements in the labeling, which were quoted in an exhibit attached to the libel, created the false and misleading impression that the article would be effective to provide greater energy, steadier nerves, better digestion, improved health and vigor, better appetite, insurance from vitamin deficiencies, physical well-being, protection against frequent colds, constipation, fatigue, digestive upsets, and other common ills; that it would provide the vitamins found in whole wheat bread, eggs, milk, liver, and tomato juice; that there are widespread deficiencies that would be corrected by use of the article; that it contained nutritionally significant amounts of all vitamins of the B complex; and that foods are an unreliable source of vitamins and, therefore, it was desirable, if not necessary, to use the article to supplement the ordinary diet: (Carton and bottle labels) "Major B-Complex Tablets are compounded to provide significant amounts of the natural B-Complex"; (circular entitled "How Vitamins Bring Health and Vigor to All the Family!") "'50% of the people of the United States do not get enough in the way of protective foods . . . lack of common sense knowledge of nutrition, even among well-to-do people . . . is appalling . . . you can read 'hidden hungers' in the faces and attitudes of the under-nourished. Peaked faces, bowlegs, and shaky nervous systems are only a few of the deficiency manifestations.' * * * ready to effectively guard the health of every man, woman and child. * * * When we begin to feel tired, listless, all fagged out . . . when we haven't the pep or desire to 'do things,' Nature is demanding vitamins! * * * You need vitamins every day—day after day—just as regularly as food itself. * * * Much of the food we eat may have lost its vitamin content long before it reaches our plates. This is because food is so frequently stored for lengthy periods, then shipped long distances before it is finally put on sale. Soil conditions, methods of transportation, methods of food handling in market and kitchen; all of these also tend to diminish the vitamin content of the foods we eat. Heat used in cooking will often destroy vitamins, * * * This is why so many of us, rich or poor, do not always get all the precious vitamins we need. Frequent colds, constipation, fatigue, digestive upsets, and other common ills are often traced to a daily lack of vitamins. * * * [Picture of apparently tired man] Vitamin B-Complex helps to gear us for the swift pace of modern life—helps us to build up more energy. This is especially true of a natural B-Complex such as MAJOR-B-COMPLEX which supplies all of the vital B-Complex factors we must have each day. Major-B-Complex will help to steady our nerves, help us to build resistance to fatigue and promote greater energy. It also aids digestion, promotes sounder sleep, and a general feeling of buoyant health. Happy, healthy families are those that get sufficient B-Complex, day after day. MUST WE TAKE B-COMPLEX REGULARLY? (YES! Like food, we cannot store it up) Because everyone must have a definite minimum of B-Complex each and every day, the U. S. Government has determined and established just how much men, women, and children should have. You cannot hope to do without B-Com-

plex for extended periods, any more than you'd expect one big meal to 'stay by you' for days. Similarly, you cannot expect a single meal to restore your strength if you have starved yourself for weeks. Because so many of us are actually 'vitamin starved' we can only begin to feel better—feel new vigor and energy—gradually—after we have taken Vitamin B-Complex regularly. It may take as much as 3 weeks before you notice the first beneficial 'lift.' However, the longer it takes, the greater the indication that your system has not been getting all of the vitamins required. WILL CHILDREN TAKE MAJOR-B-COMPLEX READILY? (YES! It's not like 'medicine') Your children particularly need vitamins. They need the Vitamin B-Complex especially because this vitamin helps promote strength for active, growing bodies, helps build weight, and stimulates healthy appetites. * * * One sure way is to give your children Major-B-Complex Tablets daily. * * * 'We know how (by means of vitamins) to maintain a high level of general health . . . a state in which we feel the vigor and zest for life and work that come from a continued sense of physical well-being.' For such good health and vitality, no price is too high. * * * Major-B-Complex provides * * * vitamin protection for all the family * * * the B-Complex is often the key to a happy, healthy family circle. [Pictures of various articles of food] * * * Major-B-Complex Tablets are compounded to provide significant amounts of the natural B-Complex * * * MAJOR-B-COMPLEX * * * containing * * * 5 vital Vitamin B factors * * * ."

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

DISPOSITION: December 18, 1944. No claimant having appeared, judgment of condemnation was entered and it was ordered that all leaflets and display posters accompanying the article be destroyed, and that the article be delivered to a charitable institution.

7915. Misbranding of Fero-B-Plex, Minerals Plus, sarsaparilla root U. S. P. with sassafras bark, Cetabs, Fenugreek Tea, and BoLax Laxative Tablets. U. S. v. 141 Packages of Fero-B-Plex, 4 Packages of Minerals Plus, 9 Packages of Sarsaparilla Root U. S. P. with Sassafras Bark, 8 Packages of Cetabs, 11 Packages of Fenugreek Tea, and 46 Packages of BoLax Laxative Tablets, and a number of booklets. Default decree of condemnation and destruction. (F. D. C. No. 12078. Sample Nos. 70727-F, 70728-F, 70767-F to 70771-F, incl.)

LIBEL FILED: April 3, 1944, Western District of Washington.

ALLEGED SHIPMENT: Between the approximate dates of July 15, 1942, and January 20, 1944, by LeLord Kordel and LeLord Kordel Products, from Chicago, Ill.

PRODUCT: 141 packages of Fero-B-Plex, 4 packages of Minerals Plus, 9 packages of sarsaparilla root U. S. P. with sassafras bark, 8 packages of Cetabs, 11 packages of Fenugreek Tea, 46 packages of BoLax Laxative Tablets, and a number of booklets, at Seattle, Wash.

Analysis disclosed that the Fero-B-Plex contained iron, calcium, phosphorus, vitamin B₁, vitamin B₂, and niacin; that the Minerals Plus contained calcium, phosphorus, iron, iodine, and vitamin D; that the sarsaparilla root U. S. P. with sassafras bark consisted essentially of sarsaparilla root and a small proportion of sassafras bark; that the Cetabs contained 31 milligrams of ascorbic acid per tablet; that the Fenugreek Tea consisted essentially of fenugreek seeds; and that the BoLax Laxative Tablets consisted essentially of powdered plant material including laxative plant drugs such as senna and buckthorn.

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the following and similar statements in the labeling of the articles were false and misleading since they represented and implied that the articles would be of value in the treatment of arthritis, whereas they were not of value in the treatment of arthritis whether taken alone, in combination, or in conjunction with certain diets recommended in the labeling: (Booklet entitled "What You Can Do About Relieving the Agonies of Arthritis") "What You Can Do About Relieving the Agonies of ARTHRITIS * * * Practical and helpful advice for the millions who suffer from arthritis. * * * you may use diet and vitamins * * * to help speed relief and make life pleasanter for yourself. Relieving the Agonies of ARTHRITIS * * * Rivalling heart disease and cancer as a thing to be dreaded, arthritis stands near the head of the list of American afflictions. * * * Known variously as arthritis deformans, rheumatoid arthritis, atro-

phic arthritis and infectious arthritis—to mention only a few aliases—this is the joint affection which is characterized, in its more advanced stages, by swelling and deformity of the joint, accompanied by some degree of immobility. Its symptoms are easily recognized by those who know them, but, unfortunately, many people take them for mere momentary twinges and ignore their warning. This, incidentally, is one of the reasons for the great prevalence of arthritis in our country today. The American fault of putting off actions until driven to it—our grasshopper complex—is to blame for the number of bedridden arthritics. This type of arthritis starts off with such a twinge in the joints—usually in the hands, but sometimes in the knees. But the unfortunate human race is, apparently, used to taking such pains for granted as an integral part of their existence. So they pay no attention. Over a period of weeks, months, or even years, the pains get progressively worse, spreading to other joints and becoming more and more persistent. Then, when the sufferer can no longer stand it, he goes to a physician, only to find that treatment is now a long and patience-trying task. Had the disease been caught at its inception, things would have been much easier and complete recovery more assured. * * * It used to be considered that all arthritis was caused by focal infections in the body: teeth, tonsils, appendix and so on were all looked at askance, and promptly removed. At present, however, benefitting from the experience of such wholesale but often unsuccessful operative treatment, we look elsewhere for causes. And immediately improper diet comes to light: underweight, overweight, anemia, toxemia and acid condition of the blood have all been found to be important contributing factors. * * * But, getting back to the dietary causes, we find a greater abundance of factors, and ones that are not so much subject to conjecture. Here we find many of the arch villains in our life today: sweets, condiments, coffee, tea, alcohol and tobacco. With arthritis, carbohydrates such as contained in candies and other sweet things should be avoided like the plague; all spicy foods, too, must be omitted from the diet. It goes without saying that alcohol and tobacco—both of which are blood toxicants—must be eschewed. For this acid condition of the blood is one of the main contributing factors in cases of arthritis. Certainly, purity of the blood stream has been preached for so long now that it is surprising that one has to go on talking about it. And coffee is another thing which leads to such a state—particularly if drunk with cream and sugar; for the caffeine contained therein, if consumed to excess, is converted into uric acid, which in turn affects the blood when present in quantities. Starch foods are another thing to be done away with in the treatment of arthritis, as they also leave an acid ash. Thus, one finds that in combatting arthritis, it is essential to change the diet from one of acid-forming to alkaline-forming foods. Still another cause of rheumatoid arthritis has been found perhaps one of the most important factors among the many given: disturbed nutritional metabolism which is brought about by a deficiency of calcium, phosphorus, and vitamin D and other essential minerals. As the calcium and phosphorus have been taken from other parts of the body to build up the calcareous deposit between the two bones that form the joint, there is an uneven distribution of the two elements in the rest of the body. The other bones and the blood have been deprived by nature of their calcium in order to bring about immobility—hence some supposed degree of ease—in the grating joint, and this must be re-introduced by the consumption of calcium- and phosphorus-bearing foods. * * * Lack of vitamin C has been claimed, by some authorities, to have a bearing on arthritis cases. This, too, affects the bone development, and provides increased resistance to infection, so it is an important element in the course of treatment. * * * Since anemia is another thing to be considered when trying to overcome arthritis, * * * An iron-rich supplement is also recommended. One of the most effective preparations for a dietetic treatment of arthritis is to stop eating entirely for a while. This may sound ambiguous, but it is entirely sensible when you pause to consider the benefits to be derived therefrom! A day of fast completely frees the body of accumulated poisons and gives the specific arthritis diet clear ground in which to work. So, with this in mind, the first step is to take a small dose of a mild laxative when you go to bed the night before the day of fasting. Taken with plenty of water, this flushes out all extraneous matter from the colon, but does not panic the peristaltic muscles. The following day, absolutely nothing should be taken into the system except pure distilled water. Drink as much of it as you can—a glass every hour. As it is distilled, it will gather up the unwanted impurities and undesirable mineral matter in the body. But, as a great deal of calcium and other minerals will be excreted during the course of the day, it is best that

you take at least six concentrated mineral tablets. This will preclude the loss of the minerals that are so valuable to the arthritic person. That night, again take some of the mild laxative, and get plenty of sleep. * * * Here is the procedure for the Juice Purifying Diet: Night before: Two BoLAX Tablets * * * Before retiring: Two BoLAX Tablets This is both a good way to continue the purifying of the intestinal tract and a method by which the complete fast may be tapered off. For the liquid part of it will continue to flush the colon, carrying away what impurities have managed to linger; yet the nutritive qualities of the fruits will benefit the system that has had no food without overtaxing the organs for whose benefit you started the fast: the stomach, liver and so forth. What's more, it has the highly desirable effect of alkalizing the system, a consummation devoutly to be wished in the treatment of arthritis. This, too, should be followed by the mild laxative upon retiring. Then, for a week, you continue the process of gradually breaking your fast by eating nothing but citrus fruit, apples, figs, pineapple, peaches, dates, berries—any fruit, in fact, except bananas. And continue to drink only distilled water, so as to get no elements other than those contained in the fruits themselves. This regime changes the intestinal flora, which is very beneficial in arthritis, and gives you more solid nourishment in preparation for a balanced diet. Needless to say, each night you should take the mild laxative in small doses. The next step in your program is to aid nature in stimulating the healing processes of the body. Without rapid healing, quick return to normal health is not easily possible. The Victory Healing Diet was designed to help accelerate the body's healing mechanism. Here is the procedure, to be followed to the letter for five days—less than five days will not give you the results you want; more than five days is a waste of time. Upon arising: Cup of Lelord Kordel's specially-treated Sarsaparilla Tea (or mint tea); 6 Fero-B-Plex tablets. * * * Before retiring: Cup of Lelord Kordel's Fenugreek Tea and two BoLAX tablets. This is very important! * * * Care must be taken that sufficient vitamins are provided. Vitamin A—the anti-infection one—ought to be taken in large quantities, as it seems to help a great many cases of arthritis, particularly if they are such as have started from some focal infection like sinus trouble. Even more important are B, C and D. B—which is of benefit in any sort of infection, and particularly if it happens to be in the intestinal tract (arthritis is certainly partly due to a toxic state of the intestines)—should be included. This can be derived from peas, lima beans, wheat germ, yeast, soybeans, whole grains and egg yolks. It is also found, to a large extent, in cabbage, carrots and tomatoes. Vitamin B Complex tablets are also recommended. * * * But fresh fruits and vegetables often do not furnish all the Vitamin C needed by the arthritic. If you think you are not getting enough vitamin C, we suggest a vitamin C concentrate in tablet form. An excellent one is called 'Cetabs'. * * * plenty of vitamin D should be taken in order to enable the body to absorb the calcium which is to make up the deficiency characteristic of rheumatoid arthritis. While on the subject of calcium, it is best to list those foods which are richest in it: Minerals-Plus * * * Thus the diet for arthritis is one in which all devitalized products are conspicuous by their absence. * * * Also, the arthritic should remember to drink a great deal of celery and cucumber juice during the course of each day— * * * This cocktail has the desirable property of being able to act as a solvent on the calcareous deposits which have been formed between the two bones of the affected joints, thus facilitating the return to motion. It is also wise to drink the juice of a fresh lime in a glass of distilled water every time you are thirsty. This is a good specific for arthritis. As the arthritic is forbidden meat protein * * * On the whole, though the diet emphasizes the alkaline fruits and vegetables, as can be seen by the following suggested skeleton menus which the patient can use: * * * Afternoon: * * * an herb tea like Lelord Kordel's Fenugreek Tea. * * * Before retiring: * * * Cup of strong Fenugreek Tea. * * * Such a program as has been outlined in this booklet, however, has been found to be most efficient in a great number of cases, and there is no reason to suppose that it won't do you a lot of good if followed faithfully. IMPORTANT! Many arthritics have reported wonderful results by using an herb tea that seems to be a splendid specific in helping arthritis and other rheumatic ailments. A cup should be drunk every other night—before retiring. Here is how to make this herb tea: Take one level tablespoonful of Fenugreek Tea and one level teaspoonful of Black Cohosh Root. Steep for 5 minutes in a cupful of boiling hot water. Strain. Sweeten with a teaspoonful of uncooked orange blossom honey; add a teaspoonful of lemon juice. Drink while still quite warm. UPSET STOMACH? Sour

Taste in Mouth? Belching? Gas Pains? Liver, Intestinal Irritations? on a Colitis or Ulcer Diet? Try FOR AMAZING RELIEF with FENUGREEK TEA FENUGREEK TEA * * * NOT A DRUG! * * * Fenugreek Tea is 'A Cup of Good Health from the Good Earth' * * * helping to eliminate the poisons that foster stomach troubles. It acts quickly to stop gas pains, sourness and belching. * * * It often tends to make your liver more active and to clear away the old bile from your system. Fenugreek Tea helps bring out gases and impurities which may have been inside you a long time. It will aid greatly in cleansing your bowels as they were never cleansed before—(gradually, not drastically or severely). It will help make your digestive organs sweet and clean. If your physician has placed you on an ulcer or colitis diet, you'll enjoy the soothing effects of Fenugreek Tea. * * * [Picture of stomach] The stomach lining is a series of small pits. Impurities cling in these pits, often causing serious disorders. The regular use of Fenugreek Tea will often help to cleanse these impurities. [Picture of intestinal tract] Headaches, backaches, and that tired-out feeling are often caused by toxic poisons that may enter the blood stream because of pockets of impurities in the intestinal tract. Use Fenugreek Tea daily. [Picture of liver] The liver, when sluggish and inactive, slows down the 'bile flow', causing headaches and lack of energy. Instead of using often harmful 'liver pills' try Fenugreek Tea—it's a natural herb product! [Picture of kidney] Impurities (acid and slime deposits) in kidneys are common causes of rheumatic and neuritis pains and general physical debility. 15 miles of tubing form the kidneys: try cleansing with Fenugreek! * * * FENUGREEK TEA . . . An excellent herb for cleaning out the stomach—retarding intestinal fermentation and gas formation * * * ."

Fero-B-Plex, further misbranding, Section 403 (a), the statement, "Now Fortified with Calcium Phosphorous, and Copper," which appeared prominently on the front label, was misleading since it exaggerated the value of the article as a source of these minerals; and, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by man by reason of its vitamin content, and its label failed to bear, as required by the regulations, a statement of the quantity of pantothenic acid, vitamin B₆, biotin, and other B-complex factors natural to high-quality yeast, present in a specified quantity of the product when consumed during a period of 1 day, and it failed to bear a statement that the need in human nutrition for pantothenic acid, vitamin B₆, biotin, and other B-complex factors natural to high-quality yeast, has not been established.

The articles were also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1332.

DISPOSITION: September 30, 1944. No claimant having appeared, judgment of condemnation was entered and the products and the booklets were ordered destroyed.

7916. Misbranding of Ritamine Vitamin and Mineral Capsules. U. S. v. 937 $\frac{1}{2}$ Dozen Boxes of Ritamine Vitamin and Mineral Capsules and 9 Packages of Booklets. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14336. Sample Nos. 73761-F, 73762-F.)

LIBEL FILED: November 2, 1944, Southern District of California.

ALLEGED SHIPMENT: Between the approximate dates of January 26 and July 25, 1944, by the American Dietetics Co., Inc., from Yonkers, N. Y.

PRODUCT: 937 $\frac{1}{2}$ dozen boxes (various sizes) of Ritamine Vitamin and Mineral Capsules, and 9 packages, each containing 300 copies, of a booklet entitled "Health Topics," at Los Angeles, Calif. The booklets were alleged to have accompanied the product when it was introduced into and while it was in interstate commerce.

Examination showed that each box contained an equal number of black capsules and brown capsules; that the black capsules contained the quantities of vitamin A, vitamin B₁, vitamin C, vitamin B₂, and niacin amide declared on the label; and that the brown capsules contained the quantities of calcium, phosphorus, iodine, and iron declared on the label.

LABEL, IN PART: (Boxes) "Each Black Ritamine Contains Eight Vitamins: Vitamin A—5000 U. S. P. Units Vitamin B₁—666 U. S. P. Units. Vitamin C—600 Int'l Units Vitamin D—500 U. S. P. Units Vitamin B₂ (G)—2 Milligrams (2000 Gamma) Vitamin B₆—25 Micrograms Calcium Pantothenate—150 Micrograms Niacinamide—10 Milligrams," and "Each Brown Ritamine Contains: Calcium . . . 88.2 Mgs. Copper . . . 2.0 Mgs. Iodine . . . 0.10 Mgs

Iron . . . 15.0 Mgs. Magnesium . . . 1.4 Mgs. Manganese . . . 1.1 Mgs.
 Phosphorus . . . 68.0 Mgs. Zinc . . . 1.17 Mgs. Cobalt . . . 0.2 Mgs.
 and Wheat Germ Oil."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the following statements in the labeling created the misleading impression that the article would supply 9 vitamins and 9 minerals in nutritionally significant amounts; that it is difficult, if not impossible, to obtain sufficient vitamins and minerals from a diet of common foods; and that the article would be effective to prevent or correct the diseases, abnormalities, and symptoms stated and implied: (Carton label) "Vitamin B₁ * * * 40 slices of whole wheat bread supply 600 U. S. P. units of Vitamin B₁. Vitamin C * * * 8 oz. glass canned pineapple juice contains about 460 Int'l units Vitamin C. * * * Vitamin B₂ * * * 7½ whole eggs contain about 2 milligrams riboflavin * * *"; (booklet entitled "Health Topics A Helping Hand to Better Living") "You folks of 35 and over who lack only vitamins and minerals for top-notch health and appearance Here's How to Get More Out of Life Feel Better—Look Younger You'll be amazed at the difference just two little RITAMINE Capsules a day may make in the way you feel and look! For RITAMINE helps you prevent and overcome vitamin and mineral deficiencies which may be giving you that let-down feeling, making you look years older than your age. During these days particularly, with so much sickness around . . . with so much more energy needed . . . and with wartime food shortages and rationing, you should have the protection of all the known needed vitamins. It takes pounds and pounds of fresh vegetables, fruits, milk and other foods to supply the vitamins and minerals in 2 tiny RITAMINE capsules. * * * Most important of all, RITAMINE aids you in getting the full benefits of the foods you eat, for the vitamins are necessary in order that your body make use of the proteins, starches, sugars and fats in your food. * * * you can buy this help to greater vitality and enjoyment of life! In RITAMINE the VITAMINS and 9 important MINERALS are in quantities designed to overcome many possible deficiencies. * * * Here's How the Vitamins in RITAMINE Offer Help to Insure a Happier, Healthier Life Eyesight—VITAMIN A is essential to normal eyesight. Especially important for vision in dim light * * * Nerves * * * helps keep your nerves strong—ready to meet the stress of wartime living by regulating the normal functioning of the nervous system. * * * more than you get in 2 pounds of lamb. Gums—VITAMIN C helps prevent spongy and bleeding gums. An adequate supply of this vitamin is also essential in conditions like arthritis and rheumatism. * * * more than you get in two glasses of pineapple juice! * * * practically the same amount as 1½ lbs. of fresh creamery butter! Skin—VITAMIN G (Riboflavin) helps to keep your skin normally clear and firm and free from certain skin disorders. It also helps protect against eye cataracts and loss of hair. * * * more than you get in 1 dozen eggs! * * * NIACINE—essential to healthy nerves and skin. * * * Aids heart functions. * * * MAGNESIUM * * * MANGANESE * * * A regulator associated with growth, reproduction and lactation. * * * ZINC * * * An essential element whose function is not entirely understood. COBALT * * * Now definitely regarded as essential to the normal body. * * * POSITIVELY PREVENT THE DANGERS OF not one or two . . . but ALL KNOWN VITAMIN DEFICIENCIES with RITAMINE * * * preventing many sicknesses and diseases before they occur . . . instead of waiting for them to strike and then trying to cure them. * * * Ritamine capsules positively prevent the dangers of ALL known vitamin shortages * * * All the vital vitamins, working together, protect you from ALL the known dangers of vitamin deficiencies—not some of the vitamin deficiencies, but ALL! Get 9 Minerals too * * * Mineral deficiencies may readily occur, due to the demineralization of the soil through intensive cultivation. Also there is the possibility of loss of minerals during shipping and storage of foods, and in the discarded water used for cooking. To make buoyant health possible, it is essential to have the minerals * * * in ample quantity. To make sure your system is obtaining minerals which may be missing from your food, RITAMINE gives you 9 minerals in quantities to supplement your daily diet. * * * to guard your health against * * * mineral deficiencies . . . take 2 little Ritamines daily—one black and one brown. * * * as well as 9 minerals * * * a very terrible disease causing disintegration of the nerves. * * * caused by lack of Vitamin B₁. But even more important than the drastic diseases and deaths, charged to the absence of one or more vitamins, are the many mysterious sicknesses from which people have suffered . . . without ever dreaming that

some substance missing from their daily diet was the cause of their ill health. WHAT CAUSES MANY VITAMIN AND MINERAL SHORTAGES? Not being able to get all the vitamin-rich and mineral rich foods we need. Not being able to eat all the vitamin-rich and mineral-rich foods—either because they disagree with us . . . or because we aren't allowed to eat them. Bad teeth or other body weaknesses make us avoid certain vitamin-rich & mineral-rich foods. Poor soil in which some foods are grown causes loss of vitamins and minerals. Cooking often loses a lot of vitamins and minerals—especially restaurant cooking, but often even the best home cooking. When foods are in storage they often lose vitamins and minerals. . . . And there are many other reasons why people do not get all the vitamins and minerals they need for buoyant health, pep and radiant appearance. The dangers of vitamin deficiencies * * * Here, briefly is what may follow a shortage of one or more vitamins:—Lowered body strength to fight off colds and other infections. Low resistance to dangerous diseases. Nerves on edge and 'ready to scream' on slightest irritation Chronic fatigue . . . always tired out Frequent aches and pains Skin afflictions Appearance of age beyond actual years Eyesight impaired . . . damaged vision at night or in dim light Teeth weakened, gums soft and mushy—These are some of the many health-endangering effects of vitamin shortages. * * * Ritamine gives you the benefit of 9 minerals and ALL the known needed vitamins found in pounds and pounds of fresh fruits, vegetables, milk and other foods. * * * Ritamine gives you these 9 VITAMINS VITAMIN A * * * as much as in 3 quarts of milk * * * VITAMIN B₁ * * * as much as in 2 lbs. lamb * * * VITAMIN C * * * as much as in 6 apples * * * VITAMIN D * * * as much as in 1½ lbs. butter * * * VITAMIN B₂ * * * as much as in 1 dozen eggs * * * NIACINAMIDE * * * as much as in 2 lbs. dried peas * * * Plus Vitamin E in Wheat Germ Oil, and These Extra B Complex Factors—Vitamin B₆—25 micrograms Calcium Pantothenate—150 micrograms * * * These 9 Minerals CALCIUM * * * Aids heart functions * * * MAGNESIUM * * * MANGANESE * * * A regulator associated with growth, reproduction and location. * * * ZINC * * * An essential element whose function is not entirely understood. COBALT * * * Now definitely regarded as essential to the normal body."

Further misbranding, Section 403 (f), the information concerning its vitamins and other dietary properties, required by law to appear on the label of the article, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices on the label) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use, since it appeared inconspicuously on the bottom of the boxes containing the article.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in the notices of judgment on drugs and devices.

DISPOSITION: February 6, 1945. The American Diet aids Co., Inc., having admitted the allegations of the libel, and the case having been removed to the Eastern District of New York pursuant to agreement, judgment of condemnation was entered and it was ordered that the booklets be destroyed and that the remaining merchandise be released under bond for relabeling under the supervision of the Food and Drug Administration.

7917. Misbranding of Soltan Calcium Water. U. S. v. 278 Bottles of Soltan Calcium Water and a Number of Booklets. Default decree of destruction. (F. D. C. No. 16077. Sample No. 28380-H.)

LIBEL FILED: May 4, 1945, Western District of Washington.

ALLEGED SHIPMENT: On or about March 15, 1945, by the Western Pharmacal Co., from Los Angeles, Calif.

PRODUCT: 278 1-quart bottles of Soltan Calcium Water and a number of booklets entitled "Calcium," at Tacoma, Wash.

Examination disclosed that the product consisted essentially of a water solution of compounds of calcium, chloride, sodium, and traces of potassium and magnesium. The product contained 3.33 grains of calcium per fluid ounce.

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the statement on the bottle label and in the booklet, "Each fluid ounce contains: Calcium 10.17 Gr.," was false and misleading as applied to the article, which contained a lesser amount of calcium.

Further misbranding, Section 403 (a), the following and similar statements on the bottle label and in the booklet created the false and misleading im-

pression that calcium is the most important mineral needed by man; that ordinary diets supply inadequate amounts of calcium; that adequate calcium for nutritional needs can not be obtained from common foods; and that the article would be effective in the treatment and prevention of the conditions, symptoms, and diseases stated and implied by the statements: (Bottle label)

"* * * Recommended as an essential mineral supplement to the normal food intake of the average person. Each fluid ounce contains: Calcium ----- 10.17 Gr. Sodium ----- 1.16 Gr. Potassium ----- 3.45 Gr. Magnesium ----- Trace Equivalent in calcium content to that of: 37 ounces of Eggs, or 20 ounces of Milk, or 44 ounces of Whole Wheat, or 57 ounces of Carrots, or 30 ounces of Spinach, or 75 ounces of White Bread, or 6 pounds of Oranges, or 11 pounds of Lean Beef, or 11 pounds of Potatoes * * *"; (booklet)

"* * * It has been demonstrated beyond question that improvement of an otherwise apparently adequate diet by the supplement of known food deficiencies can provide for the ideal growth and maintenance of the body, and the most favorable sphere for the development of the mind. * * * if one would realize that 'ENHANCEMENT OF VITALITY,' that 'POSITIVE,' that 'BUOYANT FEELING,' that 'BETTER THAN AVERAGE HEALTH' * * * Good health, good teeth, and a proper and happy mental attitude generally go together. * * * Of the food minerals essential for the proper structure and the ideal functioning of the human body, and the one most necessary and outstanding for health, endurance, and well-being is CALCIUM. * * * Authorities on food and nutrition agree that THE AVERAGE AMERICAN DIET IS DEFINITELY DEFICIENT IN CALCIUM, insufficient for the maintenance of proper CALCIUM equilibrium, and as a result many of the deficiency diseases, ordinary ailments, and organic disturbances common to the average American, both young and old, can be directly traced to or are associated with a CALCIUM DEFICIENCY. * * * Those peoples whose average diet is high in calcium are outstanding for their stature, bone structure, teeth, stamina, heart action, and endurance. * * * No pain being directly associated with a calcium deficiency, the individual may be unaware of such deficiency and need except for an 'IMPAIRMENT OF WELL-BEING,' a 'FEELING OLD WITHOUT BEING OLD,' in a 'POORLY DEFINED STATE OF ILL HEALTH,' obsessed with that 'LACKADAISICAL FEELING' so common to many people, 'DEVOID OF THE URGE NECESSARY FOR RECOVERY,' or possibly of the knowledge to recognize the need until indications of premature old age develop or there is a breakdown of some normal body function of which long standing calcium deficiency may be the true or a contributing factor. * * * A few of the reasons for the calcium deficiency of the average American are: 1. The widespread use of distilled and mineral-free waters. * * * 4. The loss of calcium in modern methods of cooking such vegetables. 5. The mistaken idea that the so-called 'good mixed diet' contains a sufficient supply of the vital minerals. A CALCIUM DEFICIENCY is often reflected by senility at an early age, general or nervous debility, susceptibility to colds, lack of energy and endurance, improper skeletal development of children and of their teeth, and the widespread prevalence of rickets and dental caries. * * * Man by inherent custom utilizes to a great extent refined foods, devoid of calcium and many of the essential minerals, which his system demands for best health, longer life, and well-being. * * * Making and maintenance of bones and teeth. * * * Protection against bone fracture during senility. * * * Reduction in susceptibility to colds. Relief in multiple neuritis in pregnancy. Beneficial effect in the treatment of hay fever and asthma. Necessary factor for normal cardiac action. Clinical improvement and better mental state in arthritis. * * * Necessary medium for the passage of nerve impulse to the muscle. * * * Increase in general health and stamina. Elimination of muscle spasms. * * * Beneficial effect and often startling relief in many types of eczema and skin irritation. Extensively employed in the relief of gastric hyper-acidity and acidosis. * * * The oral administration of calcium salts in the amounts and form ordinarily prescribed are futile. The tolerance is limited and the assimilation very little. * * * Laboratory experience with animals establishes that an adequate supply of calcium INCREASES THE LIFE SPAN. * * * The use of SOLTAN CALCIUM WATER is conducive to better health and longer life. * * * The principal calcium-bearing foods are milk, milk products, cheese, and eggs, however, the stomach will seldom tolerate the volume of such foods sufficient to supply the necessary calcium requirements; hence a SUPPLEMENTAL SUPPLY OF CALCIUM IN AN ACCEPTABLE FORM IS ADVISABLE and more often NECESSARY to maintain a proper calcium

balance for best health, endurance, and longer life. This ideal calcium balance is easily accomplished and maintained by the use of SOLTAN CALCIUM WATER * * *."

The article was also alleged to be adulterated and misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

DISPOSITION: June 16, 1945. No claimant having appeared, judgment was entered ordering that the product and the booklets be destroyed.

7918. Misbranding of Walker's Mineralized Vitamin Tablets. U. S. v. 14 Boxes and 2 Boxes of Mineralized Vitamin Tablets. Default decree of condemnation and destruction. (F. D. C. No. 13118. Sample No. 81993-F.)

LIBEL FILED: August 2, 1944, District of New Jersey.

ALLEGED SHIPMENT: On or about June 1, 1944, by Walker Vitamin Products, Inc., from Mount Vernon, N. Y.

PRODUCT: 14 boxes, each containing 50 tablets, and 2 boxes, each containing 250 tablets, of Walker's Mineralized Vitamin Tablets, at Jersey City, N. J.

Tests showed that these tablets passed through the gastro-intestinal tract without disintegration.

LABEL, IN PART: "Walker's Mineralized Vitamin Tablets."

VIOLATIONS CHARGED: Misbranding, Section 403(a), the following label statements were false and misleading: "Mineralized Vitamin Tablets Contains Fat-Free Fish Liver Oil Concentrate, Synthetic Vitamins and Mineral Salts to Supply In Each Tablet Vitamin A (Natural) 5000 Int. Units Vitamin B₁ (Thiamine) 3.0 Mg. Vitamin B₂ (Riboflavin) 2.0 Mg. Vitamin B₆ (Pyridoxine) .1 Mg. Calcium Pantothenate 1.0 Mg. Niacinamide 20.0 Mg. Vitamin C (Ascorbic Acid) 30.0 Mg. Vitamin D (Viosterol) 500 Int. Units Iron—15 Mg., Calcium—50 Mg., Phosphorus—40 Mg., Magnesium, Manganese and Zinc—Each ½ Mg. Each tablet supplies the adult daily minimum requirement of Iron and Vitamins A, B₂, C, D and three times this requirement of Vitamin B₁, plus 20 mg. of Niacinamide,—also approximately 7% of the calcium and phosphorus requirements. The need for pyridoxine and calcium pantothenate in human nutrition has not been established,—nor has the need for dietary supplementation with magnesium, manganese and zinc been determined. Dose: One or two tablets daily as a dietary supplement." The product, when taken as directed, passed through the human body without disintegration, and therefore did not make available to the body the vitamins and minerals contained in the tablets.

DISPOSITION: March 26, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7919. Adulteration and misbranding of Watkins Vitamins ABDG Tablets, and misbranding of Watkins Cod Liver Extract Tablets. U. S. v. The J. R. Watkins Co. Plea of nolo contendere. Fine, \$60. (F. D. C. No. 11432. Sample Nos. 38808-F, 38809-F.)

INFORMATION FILED: January 23, 1945, District of Minnesota, against the J. R. Watkins Co., a corporation, Winona, Minn.

ALLEGED SHIPMENT: During the month of April 1943, from the State of Minnesota into the State of Illinois.

PRODUCT: Analysis of the Watkins Cod Liver Extract Tablets disclosed that they contained 3,465 U. S. P. units of vitamin A and 314 U. S. P. units of vitamin D per tablet. In addition, the article was represented to contain 1 grain of dicalcium phosphate per tablet.

Analysis of the Watkins Vitamins A B D G Tablets disclosed that they contained not more than 225 U. S. P. units of vitamin A, not more than 100 U. S. P. units of vitamin D, and approximately 0.375 milligram or 125 units of vitamin B₁ (thiamine chloride) per tablet.

VIOLATIONS CHARGED: Watkins Cod Liver Extract Tablets, misbranding, Section 403 (a), because of misleading statements in an accompanying circular which represented and implied that defective bone and tooth formation, poor health and improper growth, lack of resistance to common cold symptoms and similar minor infections of the respiratory tract, poor appetite, lowered resistance to infections, dry skin, lack of vigor, diarrhea, digestive disturbances, cessation of growth, physical weakness, formation of kidney and gall stones, catarrh, sinusitis, ear abscesses, restlessness, bowlegs, potbelly, constipation, infantile tetany, convulsions, enlarged joints, softened bones, pigeon breast,

curvature of the spine, and retarded growth and marked depletion of calcium and phosphorus in the body commonly and usually result from lack of the vitamins and mineral contained in the article; that the user might reasonably expect that the consumption of the article would correct such conditions; that vitamins A and D are usually lacking in the ordinary diet; and that it is necessary for all persons to supplement the diet each day with additional amounts of vitamins A and D. The conditions referred to in the labeling commonly and usually result from causes other than lack of the vitamins and mineral in the article; the user might not reasonably expect that consumption of the article would bring about correction of such conditions, since it would not ordinarily be efficacious for such purposes; and vitamins A and D are usually supplied by the ordinary diet in adequate amounts, and, consequently, most persons do not need additional amounts thereof. Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by man by reason of its content of vitamin A and vitamin D, and by reason of its mineral content of phosphorus, but its label did not bear, as required by the regulations, a statement of the proportion of the minimum daily requirements of vitamin A, vitamin D, and phosphorus which would be supplied by the article when consumed in a specified quantity during a period of 1 day.

Watkins Vitamins ABDG Tablets, adulteration, Section 402 (b) (1), valuable constituents of the article, vitamins A, B₁, and D, had been in whole or in part omitted or abstracted therefrom, since the article was represented to contain in each tablet 2,000 U. S. P. units of vitamin A, 200 U. S. P. units of vitamin D, and ½ milligram or 167 units of vitamin B₁, whereas it contained per tablet not more than 225 U. S. P. units of vitamin A, not more than 100 U. S. P. units of vitamin D, and not more than 0.375 milligram of vitamin B₁, equivalent to 125 units of vitamin B₁.

Misbranding, Section 403 (a), the label statements, "Vitamins A-B-D-G Tablets Each Tablet contains: 2,000 U. S. P. Units Vitamin A; 200 U. S. P. Units Vitamin D (Viosterol); 1-2 Milligram or 167 Units Vitamin B₁ (Thiamin Chloride); * * * Watkins Vitamins ABDG Tablets are biologically and chemically assayed for measured doses," and similar statements appearing in an accompanying circular, were false and misleading.

Further misbranding, Section 403 (a), because of misleading statements on its label and in an accompanying leaflet which represented and implied that vitamins A, B, D, and G are usually lacking in the ordinary diet; that it is necessary that the diet of babies, children, and adults be supplemented regularly with additional amounts of these vitamins; that supplemental vitamins need be consumed even though there may be no lack of the vitamins in the diet; that low resistance to infections, lack of normal growth, poor appetite, dry skin, lowered resistance to certain types of infection, lack of vigor, diarrhea, digestive disturbances, poor growth, injury to the nerve tissues, neuritis, polyneuritis, loss of appetite, unhealthy skin and mucous membranes, and lack of normal motor, sensory, and central nervous system functions are usually caused by lack of the vitamins contained in the article; and that the user might reasonably expect that the consumption of the article would correct such conditions. Vitamins A, B, D, and G are not usually lacking in the ordinary diet, but are usually present in adequate amounts; it is not necessary that the diet of babies, children, and adults be supplemented regularly with additional amounts of the vitamins; supplemental vitamins need not be consumed unless there is a lack of the vitamins in the diet; and the conditions referred to in the labeling commonly and usually result from causes other than lack of vitamins, and would not ordinarily be corrected by use of the article.

Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by man by reason of its content of vitamins A, B₁, D, and G (B₂), and its label did not bear, as required by the regulations, a statement of the proportions of the minimum daily requirements for vitamins A, B₁, D, and G (B₂) which would be supplied by the article when consumed in a specified quantity during a period of 1 day.

The articles were also alleged to be misbranded, and the vitamin tablets were also alleged to be adulterated, under the provisions of the law applicable to drugs, as reported in the notices of judgment on drugs and devices.

DISPOSITION: January 23, 1945. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$10 on each of 6 counts. a total fine of \$60.

7920. Misbranding of Vytalyne. U. S. v. 400 Bottles of Vytalyne. Tried to the court and jury. Verdict for the Government. Decree of destruction. (F. D. C. No. 10800. Sample No. 21913-F.)

LIBEL FILED: September 23, 1943, Western District of Pennsylvania; libel amended on January 14, 1944.

ALLEGED SHIPMENT: On or about May 21, 1943, from New York, N. Y., by the Dealers' Brands Co.

PRODUCT: 400 bottles, each containing 50 tablets, of Vytalyne at Pittsburgh, Pa. Analysis showed that the article contained approximately 10 milligrams of calcium pantothenate per tablet.

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the following and similar labeling statements were false and misleading since they represented and suggested that the article would be effective in restoring the natural color to gray hair or in preventing the graying of hair, whereas the article would not be effective for such purposes: (Display placard) "Banish Gray and Graying Hair with Vitamins! * * * Vytalyne Hair Recoloration Method 'Let Nature Provide the Color'"; (circular entitled "Vitamins and Your Hair") "Several research workers have conducted experiments with laboratory animals and have reported that certain of these, when deprived of Pantothenic Acid, * * * showed immediate graying of their hair or fur * * * when the deficiency was corrected by feeding a corrective quantity of Pantothenic Acid * * * the color returned to the fur * * * Calcium Pantothenate, with mineral salts which are believed by some research workers to be helpful in speeding restoration of hair color"; (circular entitled "Routine Procedure in the 'Vytalyne' System of Hair Recoloration") "This system of experimental hair recoloration is designed to correct vitamin deficiencies that cause graying of the hair * * * after all the hair has resumed its natural color, the continued use of calcium Pantothenate 'Vytalyne' is advisable to avoid the recurrence of the vitamin deficiency and the loss of the color that has been regained."

Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its calcium pantothenate content, and its label failed to bear, as required by the regulations, the statement, "The need for calcium pantothenate in human nutrition has not been established."

DISPOSITION: On February 29, 1944, the Dealers' Brands Co., claimant, filed an answer denying that the product was misbranded as alleged in the libel, and thereafter the case proceeded to trial before a jury. At the conclusion of the Government's testimony, the claimant rested his case without offering any testimony and, upon motion by the Government's attorney, the court, on May 22, 1944, instructed the jury to return a verdict in favor of the Government. The jury thereupon returned a verdict for the Government, and on January 12, 1945, an order was entered directing that the product, together with the placards and circulars, be destroyed.

7921. Misbranding of Macu Brand Papaya Concentrate. U. S. v. Macu Fruit Products. Motion to quash denied. Plea of guilty. Fine, \$200 and costs. (F. D. C. No. 10602. Sample No. 43991-F.)

INFORMATION FILED: February 9, 1944, Northern District of Illinois, against the Macu Fruit Products, a corporation, Chicago, Ill.

ALLEGED SHIPMENT: On or about April 17, 1943, from the State of Illinois into the State of Missouri.

PRODUCT: Analysis disclosed that the product was a mixture of papaya pulp, crushed papaya seed, fruit acids, flavoring, and sugar.

LABEL, IN PART: "Macu Brand Papaya Concentrate."

VIOLATION CHARGED: Misbranding, Section 403 (a), the name "Papaya Concentrate" was false and misleading since the article did not consist of papaya concentrate but consisted of a mixture of papaya pulp, crushed seeds, fruit acids, flavoring, and sugar. Further misbranding, Section 403 (a), certain statements in an accompanying circular were false and misleading since they represented and suggested that the article was of special value in the maintenance and restoration of health; that it was rich in vitamins; that it contained an enzyme resembling in its action animal pepsin; that it would aid digestion; that it possessed medicinal values; that it was quick and far-reaching as a curative agent for gastritis, dyspepsia, ulcers, and bowel disorders; that it would aid digestion in chronic dyspepsia and gastric fermentation; that it would dissolve false mem-

branes in diphtheria and croup; that it would act as a solvent of false membranes and warts; that it would be of value in fissured tongue or cancer; that it possessed peculiar digestive properties; that it was Nature's special remedy for many ills of mankind; and that it would be efficacious in the treatment of 90 percent of human ills, and in the treatment of digestive or stomach trouble, including ulcers, colitis, and gastritis. The article was not rich in vitamins; it did not contain an enzyme resembling, in its action, animal pepsin; it did not possess medicinal values or peculiar digestive properties; it was not Nature's special remedy for the many ills of mankind; and it would not be efficacious for the purposes recommended.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in the notices of judgment on drugs and devices.

DISPOSITION: On June 12, 1944, the court entered an order denying the defendant's motion to quash the information. Thereafter, a plea of guilty was entered by the defendant, and on November 6, 1944, the court imposed a fine of \$200 and costs.

7922. Misbranding of Min-O-Malt (chocolate-flavored sirup). U. S. v. 821 Cartons of Chocolate Flavor Syrup. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 12347. Sample Nos. 20294-F, 20299-F.)

LIBEL FILED: May 11, 1944, District of Massachusetts.

ALLEGED SHIPMENT: On or about August 11 and 19, 1943, by the Energy Food Co., from Brooklyn, N. Y.

PRODUCT: 821 cartons, each containing 12 jars, of chocolate-flavored sirup (Min-O-Malt), at Lynn, Mass.

LABEL, IN PART: "Chocolate Flavor Syrup Enriched with Energizing Vitamins and Minerals 1 Lb. 6 Oz. Net Delicious Min-O-Malt New Vitamins Added Nutritious."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the label statement "1 Lb. 6 Oz. Net" was false and misleading as applied to the product, which was short-weight.

Further misbranding, Section 403 (a), the labeling statements quoted below created the false and misleading impression that use of the article would increase resistance to disease and would result in good teeth, proper bone formation, rich blood, physical and mental well-being, and normal health; and that the article would supply nutritional factors ordinarily lacking in or unobtainable from ordinary foods: (Label) "Energizing * * * for better resistance * * * for better appetite * * * for healthier skin * * * for better digestion * * * for healthier teeth * * * for solid bone structure * * * for more red blood cells * * * Vitamins and Minerals play a decisive role in the physical and mental well-being of the individual. These minute substances in foods make for the normal functioning of body processes. Minerals are the building stones of the cells, forming the bone and tissue structure of the body. Vitamins and Minerals help to defeat deficiency diseases, and make for buoyant health"; (circular entitled "The Importance of Vitamins and Minerals") "for normal health and nourishment * * * sufficient for maintaining normal health. * * * foods alone are not sufficient to keep the body in normal health; but that Vitamins and Minerals play the decisive role in the physical and mental well-being of the individual. * * * increases resistance to infection; promotes growth, and helps to prevent night blindness. * * * stimulates appetite; promotes growth; aids normal intestinal function, and helps to maintain a healthy nervous system. * * * prevents various skin and eye infections. It is also essential for normal well-being. * * * essential in the prevention and cure of Pellagra, a disease affecting practically every system in the body. Pellagra is primarily a disease found in the southern climates, but pre-Pellagra conditions are known to exist in practically every part of the world. The importance of this Vitamin in the daily nutrition is, therefore, self-evident. * * * It plays a very important part in the formation of sound teeth and the maintenance of their normal structure. * * * helps to build the red cells in the blood stream. Nutritional anemias (poor Blood), caused by lack of iron are greatly benefitted by a prompt intake of iron or iron-rich foods. * * * Unfortunately, however, in our modern way of life, we have developed a taste for highly refined food products, cooked and preserved in various ways, with the result that many foods have been robbed of these all-important Vitamin and Mineral elements. More than that, our present form of living in crowded cities, far from nature, has caused increased nervous tension. The quick tempo of our city life has forced us to

resort to super-refined foods so that our systems can no longer tolerate the roughage necessary for the maintenance of normal health. * * * The medical profession has recommended an excess of Vitamins rather than a minimum of Vitamin. It is, therefore, important that everyone should always be furnished with a plentiful supply of all essential Vitamins and Minerals. * * * However, milk lacks certain important Vitamins and Minerals, and in our modern diet these valuable substances are not supplemented in sufficient quantities. Hence Improved Min-O-Malt which has been enriched with these Minerals and Vitamins makes an ideal addition to milk. * * * Vitamins A B₁ (Thiamin Hydrochloride), B₂ (Riboflavin), Niacinamide, and Vitamin D necessary for the maintenance of normal health. A pint jar of Improved Min-O-Malt contains 35,000 Units of Vitamin A, more than is found in 30 pounds of bananas. A pint jar of Improved Min-O-Malt contains 2,500 Units of Vitamin B₁ (Thiamin Hydrochloride), more than is found in 25 bowls of cooked oat meal. A pint jar of Improved Min-O-Malt contains 14,000 Micrograms of Vitamin B₂ (Riboflavin), more than is found in 55 pounds of tomatoes. A pint jar of Improved Min-O-Malt contains 85 Milligrams of Niacinamide, more than is found in 25 pounds of veal. A pint jar of Improved Min-O-Malt contains 3,500 Units of Vitamin D, more than is found in 125 quarts of milk. A pint jar of Improved Min-O-Malt contains 1,200 Milligrams of Calcium, more than is found in 33 pounds of liver. A pint jar of Improved Min-O-Malt contains 1,100 Milligrams of Phosphorus, more than is found in 12 pounds of butter. A pint jar of Improved Min-O-Malt contains 84 Milligrams of Iron, more than is found in 80 pounds of milk."

Further misbranding, Section 403 (b), the product was offered for sale under the name of another food, since chocolate-flavored sirup, which the article was represented to be, does not contain ingredients other than sugar sirup flavored with chocolate or cocoa; Section 403 (e) (2), the label failed to bear an accurate statement of the quantity of contents; and, Section 403 (j), the article was represented as a food for special dietary uses by reason of its vitamin A, vitamin B₁, vitamin B₂, niacinamide, vitamin D, calcium, phosphorus, and iron content, but its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirements of these food factors provided by the product when consumed in a specified quantity during a period of 1 day.

DISPOSITION: November 27, 1944. Abraham Herwitz, Lynn, Mass., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

• **7923. Misbranding of Paracelsus. U. S. v. 20 Cans of Paracelsus. Default decree of destruction.** (F. D. C. No. 11825. Sample Nos. 3786-F, 3787-F.)

LIBEL FILED: On or about February 18, 1944, in the Western District of Missouri.

ALLEGED SHIPMENT: On or about November 29 and December 16, 1943, from Cleveland, Ohio, by the American Biochemical Corporation.

PRODUCT: 9 cans, each containing 160 grams, 2 cans, each containing 320 grams, and 9 cans, each containing 600 grams, of Paracelsus at Kansas City, Mo.

Chemical examination of samples disclosed that the article was a mixture of inorganic salts, principally sodium phosphate, calcium lactate, potassium chloride, table salt, magnesium sulfate, sodium bicarbonate, and lesser quantities of other chemical salts.

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the following and similar statements in the labeling created the false and misleading impression that the article was a combination of inorganic minerals in their most assimilable form that would supply minerals necessary in normal nutrition in their most desirable proportions; that it was of substantial value as a dietary supplement in respect to the minerals named; that these minerals are not ordinarily present in adequate amounts in the average diet; and that the article would correct the disease conditions and abnormalities and fulfill the promises of benefit implied: (Label) "A combination of inorganic minerals designed to supplement the required minerals which may not be adequate in the average daily diet. Users of Paracelsus will often obtain sufficient additional minerals to supply them with the required daily dosage. Active Ingredients Calcium 100.00 Milligrams Chlorine 253.00 Milligrams Iron 1.20 Milligrams Iodine 1.10 Milligrams Lithium 6.00 Milligrams Manganese 0.15 Milligrams Magnesium 7.40 Milligrams Phosphorus 200.00 Milligrams Potassium 115.00 Milligrams Sodium 435.00 Milligrams Sulphur 48.00 Milligrams Silicon Traces Copper Traces * * *

It replenishes the system with needed minerals and must be taken regularly to obtain best results"; (circular entitled "Paracelsus Food and Health") "Paracelsus is a compound of inorganic minerals in their most assimilable form. As an up-builder and tonic, Paracelsus is most effective. It tends to correct disorders arising from mineral deficiency. * * * Astonishing successes have been reported in the treatment of arthritis, rheumatism, neuritis, etc. * * * When foods are cooked, the mineral salts alter their natural forms, or are lost in the process. When you consider that foods are lower than normal in mineral content, before cooking, due to excessively depleted soils, the problem becomes acute indeed. * * * Calcium—Bone builder. * * * Chlorine—Cleanses the system. * * * Iron—Vitality. Rich blood. Iodine—Acts upon thyroid gland, brain, flow of saliva. Magnesium—Conducive to relaxation of nerves. Flushes entire system. Manganese—A Builder of resistance against disease. * * * Phosphorus—Nourishes the brain, muscular tissues, heart and nerves. Potassium—Assists in a healthy functioning of the kidneys and liver. Stimulates blood circulation. Silicon—Protects the skin and body. The insulating chemical. Sulphur—Blood purifier. Acts upon the liver. Sodium—Active in the blood. Aids digestion. Counteracts poison"; (circular entitled "Paracelsus Its Aim And Object with regard to Food And Health") "The mineral elements in Paracelsus are instrumental in eliminating toxic poisons from the physical structure. They also tend to neutralize acid conditions and assist in purifying and strengthening the blood stream"; (circular entitled "The Active Life of These Two is the Wonder of their Friends") "I had one of the worst cases of arthritis, tried many, many leading doctors, different climates, but no help to speak of until I tried Paracelsus. * * * I find that Paracelsus has helped me so much. I always got a very bad cough every winter and I never could get rid of it till in the spring till I could get out in the sun,"; (circular entitled "Here's What They Say About Paracelsus") "Asthma and many other ailments may be caused by a lack of sufficient minerals in the diet. * * * For more than eleven years, Paracelsus, containing essential mineral elements, has helped thousands of sufferers."

Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by man by reason of the presence of the various mineral elements declared, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirement of calcium, iron, iodine, and phosphorus furnished by a specified quantity of the article when consumed as directed during a period of 1 day.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1278.

DISPOSITION: April 20, 1944. No claimant having appeared, judgment was entered ordering that the product be destroyed.

7924. Misbranding of Adolphus proprietary remedies. U. S. v. 194 Boxes of Adolphus Peppermint, 8 Bottles of Calcium Pantothenate, 71 Bottles of Adolphus Natural Organic Calcium Tablets, 24 Bottles of Adolphus Brand Calcium Tablets, 60 Bottles of Adolphus Brand Soybean Lecithin, 104 Bottles of Adolphus Brand Wheat Germ Oil, 60 Bottles of Adolphus Brand Improved B Complex, 240 Bottles of Adolphus Brand Mineral Capsules, and 1 Drum of Natural Economy Calcium Phosphorus Vitamin D Tablets. Default decree of condemnation and destruction. (F. D. C. No. 11598. Sample Nos. 55530-F, 55532-F to 55539-F, incl.)

LIBEL FILED: January 12, 1944, Southern District of California. Amendment filed January 18, 1944, to cover a shipment of 4 boxes of booklets and leaflets.

ALLEGED SHIPMENT: On or about December 23, 1945, by Adolphus Hohensee, from Seattle, Wash.

PRODUCT: 194 boxes of Adolphus Peppermint, 8 bottles of calcium pantothenate, 71 bottles of Adolphus Natural Organic Calcium Tablets, 24 bottles of Adolphus Brand Calcium Tablets, 60 bottles of Adolphus Brand Soybean Lecithin, 104 bottles of Adolphus Brand Wheat Germ Oil, 60 bottles of Adolphus Brand Improved B Complex, 240 bottles of Adolphus Brand Mineral Capsules, and 1 drum of Natural Economy Calcium Phosphorus Vitamin D Tablets, at Los Angeles, Calif.

LABEL, IN PART: Calcium pantothenate with vitamin B₁, "Each Tablet Contains: 10 Mg. Calcium Pantothenate 333 USP Units Vitamin B-1 Plus B Complex Factors From Brewers' Yeast"; Natural Organic Calcium Tablets, "Each Tablet Contains Calcium—75 Milligrams Phosphorus—38 Milli-

grams Vitamin D—100 U. S. P. XI Units”; Soybean Lecithin, “Each Capsule Contains: 4 Grains Soybean Lecithin in 3 Minimum Soybean Oil, With 150 USP Units Vitamin D From Irradiated Ergosterol”; Natural Economy Calcium Phosphorus Vitamin D Tablets, “Each Tablet Contains Calcium—75 Milligrams Phosphorus—38 Milligrams.”

VIOLATIONS CHARGED: Peppermint, misbranding, Section 403(a), the following statements in the labeling were false and misleading since they represented and suggested that the article, when prepared as directed, would be efficacious as an alkalizer and would dissolve fat, whereas the article would not be efficacious for such purposes: (Booklet entitled “Nutritional Food Guide”) “Alkaline-Forming Foods * * * Peppermint Leaves”; (booklet entitled “Adolphus Messenger of Health, Success and Happiness”) “Pep-O-Mint Tea * * * A wonderful System Alkalizer”; (booklet entitled “The Health, Success and Happiness Lectures ‘The Normal Ration’”) “A couple of cups of Adolphus Mint Tea before retiring will really help to alkalize your system. Adolphus Reducing Diet * * * On Arising! Cup of hot Adolphus Mint Tea with the juice of one lemon for its fat dissolving acid content.”

Calcium pantothenate, misbranding, Section 403 (a), the following statements in the labeling were false and misleading since the article would have no effect upon the color of gray hair: “These tablets may prevent premature graying of the hair if caused by a lack of Calcium Pantothenate, a factor of the Vitamin B Complex,” and “Clinical experiments have shown darkening of the hair in some cases, in 1 month’s time, others ranged from 3 months to 1 year”; and, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by man by reason of its vitamin content, and its label failed to bear, as required by the regulations, the statement that the need for calcium pantothenate in human nutrition has not been established.

Natural Organic Calcium Tablets and Adolphus Brand Calcium Tablets with Phosphorus and Vitamin D, misbranding, Section 403 (a), the following statements in the labeling were false and misleading since the article would not fulfill the promises of benefit stated and implied: (Booklet entitled “The Health, Success and Happiness Lectures Arthritis and Rheumatism”) “Arthritis and Rheumatism The Secret of Changing Your Body Chemistry The Scientific Way to Strengthen Your Personality * * * PHOSPHORUS: * * * Effects: Acts on the bone and brain; strengthens mental powers; improves nutrition of nerve tissue, especially heart tissue; agent of life and growth; aids in growth of hair. Deficiency in: Causes neuralgia, wakefulness at night, numbness of the skin, poor hair growth, shallow breathing, dislike for exertion, melancholia. * * * CALCIUM: * * * Effects: Builds bone, muscle, teeth, etc., counteracts acid, aids vitality, soothes the nerves and decreases nervousness, stimulates courage. Deficiency in: Causes lack of will power, inward fears, poor teeth, nervousness, pasty complexion, tired feeling with little exertion. * * * ‘THE PRIMARY CAUSE OF DISEASE’ Herman Hille, of the Hille Laboratories, declared in a statement at the fifth annual meeting of the American Association of Clinical Research, Chicago: ‘From a purely physical standpoint mineral starvation is usually the primary cause of disease. * * * Loss of mineral bodies impairs the food value of foodstuffs, and, moreover, tends to make them poisonous * * *’ ARTHRITIS: * * * THE PROPER SOLUTION When this dreadful condition first attacks your body * * * we notice some soreness and stiffness in our joints * * * This is our first warning from nature that something is wrong. It is nature’s way of advising us that it has something to get rid of; that there has been an accumulation of waste; that was not eliminated from the body. * * * Technically, arthritis means that the waste products of the blood in the form of uric acid and calcareous salts which have deposited themselves in the joints. Solve the problem by correcting your diet immediately. * * * THE AFFECTS OF CALCIUM STARVATION: While arthritis remains the cruelest of any disease that inflicts the human body, there are other painful diseases of the bones and joints that are almost as bad. Some people in and near middle life have a stooped posture; the chest has collapsed; the spine seems to have shriveled; the bones seem to have lost their natural supporting power. How often have you heard the saying, ‘Mr. So and So is becoming more bent and crippled as time goes on’ * * * RAPID AGING DUE TO LACK OF CALCIUM LATEST THEORY ON DIET REPORTED BY COLUMBIA UNIVERSITY SCIENTIST * * * ‘Discovery that the onset of old age is hastened by food deficient in calcium was reported to the American Asso-

ciation for the Advancement of Science * * * We are convinced, a conviction shared by many physicians, that calcium is a great health and strength maintaining agency. Scientists conducted feeding tests on neurotic, backward children with astonishing results. Mentality, dispositions and health improved and tooth decay was retarded.' CALCIUM—THE MAGIC SUBSTANCE CHANGE YOUR BODY CHEMISTRY—STRENGTHEN YOUR PERSONALITY CALCIUM is called the magic substance. Mental deficiency, stunted physical development, decayed teeth, acidity, nervousness and many other common aches—eyes premature old age—have been traced to a deficiency or lack of calcium. PHOSPHATE deficiency causes nervousness, sleeplessness, a lack of 'pep,' and other ailments. * * * An abundance of calcium, phosphates, iron and iodine are required to build charm, magnetism and perfect health. A change in body chemistry has been known to change the entire physical state. It is not uncommon for certain ailments to disappear entirely with a change in chemistry * * * we can safely state that if you are to be vigorous, look, act and behave like the normal, healthy person you are striving to be—don't neglect to provide calcium for your systems in an assimilable form and in sufficient quantities. There are many kinds of calcium and phosphorus preparations on the market. The best results have been obtained with Adolphus Calcium Tablets with Phosphorus and Vitamin D."

Further misbranding of Natural Organic Calcium Tablets, Section 403 (a), the following label statements, "Calcium Tablets with Phosphorus," "As a dietary supplement take two tablets with each meal," "Each Tablet Contains Calcium—75 Milligrams Phosphorus—38 Milligrams," and "Four tablets three times daily will supply, with normal food intake, full adult requirements of Calcium & Phosphorus," were false and misleading since the article contained per tablet approximately 6 milligrams of calcium and 5 milligrams of phosphorus; 4 tablets 3 times daily would not supply the full adult requirements of calcium and phosphorus; and the article would not supply, when taken in accordance with the directions on the package, a significant amount of either calcium or phosphorus.

Further misbranding of Adolphus Brand Calcium Tablets with Phosphorus and Vitamin D, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by man by reason of its mineral content, and its label did not bear, as required by the regulations, a statement of the proportion of the minimum daily requirements for calcium and phosphorus which would be supplied by the article when consumed in a specified quantity during a period of 1 day.

Adolphus Brand Soybean Lecithin, misbranding, Section 403 (a), the statement, "The ideal nerve and brain food," in the booklet entitled "Nutritional Food Guide" and in the order blank, was false and misleading since the article was not an ideal nerve and brain food.

Wheat germ oil, misbranding, Section 403 (a), the booklet entitled "Nutritional Food Guide" contained the following false and misleading statements: "Muscles * * * Lack of 'E'—Weakness; partial paralysis," and "Results of Mild Deficiency * * * 'E' Sterility disturbance during pregnancy, impaired mentality." The article was not effective in the prevention of the diseases, conditions, and symptoms stated and implied.

Improved B Complex Food Supplement, misbranding, Section 403 (a), the following statements in the labeling were false and misleading since the article would not be efficacious in the treatment of the diseases, conditions, and symptoms stated and implied: (Booklet entitled "Adolphus Messenger of Health, Success and Happiness") "* * * HIGH POTENCY VITAMIN B COMPLEX REMEMBER Vitamin B Complex factors are the regulating vitamins. Perfect co-ordination is impossible without a sufficient amount of Vitamin B Complex. If you suffer from—Indigestion Poor Appetite Fatigue Lack of Energy No Pep Loss of Weight Nervousness Inability to concentrate Difficulty in relaxing Your system may be deficient in these priceless vitamins"; (booklet entitled "Nutritional Food Guide") "Vitamin B-1 for 'Morale' * * * Vitamin B-2 for Growth, Healthy Eyes, Normal Skin * * * Lack of 'B'—Dry scalp skin. * * * Lack of 'B'—Slow heart beat; * * * disease of muscular substance of the heart. * * * Lack of 'B'—Poor lactation (or milk). * * * Lack of 'B'—Poor appetite; poor flow of digestive juices; constipation; tendency to peptic ulcers; damage if lack continues. * * * Lack of 'B'—Bone marrow degeneration. * * * Lack of 'B'—Loss of muscular tone; soreness and pain; spasms. * * * Results of Mild Deficiency * * * 'B' * * * Poor appetite, general weakness,

slow heart beat, nervousness, neuritis, gastric and intestinal disturbances
* * *"

Further misbranding of the Improved B Complex Food Supplement, Section 403 (j), it purported to be and was represented as a food for special dietary uses by man by reason of its vitamin content, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirement for Vitamin B₂ (G) which would be supplied by the article when consumed in a specified quantity during a period of 1 day, since the statement, "Four tablets supply the full minimum daily requirement of Vitamin B₂ (G)," was incorrect; and its label failed to bear a statement that the need for calcium pantothenate in human nutrition has not been established; and, Section 403 (f), the statement of the amounts of calcium pantothenate which would be supplied by the article, which the law requires to appear on the label, did not appear thereon in terms which were likely to be understood by the ordinary individual, since the amounts per tablet were given in terms of micrograms, a unit with which the ordinary individual is not familiar.

Adolphus Brand Mineral Capsules, misbranding, Section 403 (a), the statement, "Adolphus Mineral Capsules * * * containing all the principal minerals needed in the human body," which appeared in an accompanying order blank, was false and misleading since the article, when taken in accordance with the directions in the labeling, would not supply all the principal minerals needed in the human body, and since the amounts of calcium and phosphorus, two of the principal minerals needed, supplied when the article was taken in accordance with the directions on the label was but a small fraction of the amounts needed; Section 403 (f), the proportion of the minimum daily requirement for iron, iodine, calcium, and phosphorus supplied by the article when taken in accordance with the directions for use, which the law requires to appear on the label, did not appear prominently, since it did not appear upon the principal display panel of the label; and the label failed to reveal that the need for manganese in human nutrition has not been established; and, Section 403 (i), the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of the ingredients, salt and dried Epsom salt.

Natural Economy Calcium Phosphorus Vitamin D Tablets, misbranding, Section 403 (a), the label statements, "Calcium Phosphorus * * * Tablets," "Each Tablet Contains Calcium—75 Milligrams Phosphorus—38 Milligrams," and "Four tablets three times daily will supply, with normal food intake, full adult requirements of Calcium & Phosphorus," were false and misleading since the article contained per tablet approximately 6 milligrams of calcium and 5 milligrams of phosphorus; 4 tablets 3 times daily would not supply full adult requirements of calcium and phosphorus; and the article would not supply, when taken in accordance with the directions on the package, a significant amount of either calcium or phosphorus.

The articles, with the exception of the Natural Economy Calcium Phosphorus Vitamin D Tablets, were also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

DISPOSITION: April 14, 1944. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

7925. Misbranding of brewers' yeast tablets. U. S. v. 217 Bottles of Brewers' Yeast Tablets. Default decree of destruction. (F. D. C. No. 14334. Sample No. 66978-F.)

LIBEL FILED: On or about November 8, 1944, Western District of Missouri.

ALLEGED SHIPMENT: Between the approximate dates of August 14, 1943, and April 7, 1944, by the Oxford Products, Inc., from Cleveland, Ohio.

PRODUCT: 217 bottles, each containing 250 brewers' yeast tablets, at Kansas City, Mo.

When taken as directed, 8 tablets daily, the article would provide about $\frac{1}{4}$ of the minimum daily requirement of vitamin B₁ and less than $\frac{1}{20}$ of the minimum daily requirement of vitamin B₂.

LABEL, IN PART: "Oxford 250 Pure Brewers Yeast Tablets A Tonic Food."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the labeling statements, "A Tonic Food Extremely Rich In Vitamins B and G, * * * These Yeast Tablets are rich in Vitamins B and G, which have been found very helpful as a stimulant to the appetite," were false and misleading since the product was not a rich source of vitamins B and G, was not a tonic food, and was not effective as a stimulant; and, Section 403 (j), the product purported to be and was repre-

sented as a food for special dietary uses by man by reason of its vitamin B₁ and vitamin G content, and its label failed to bear, as required by the regulation, a statement of the proportion of the minimum daily requirements of vitamin B₁ and vitamin G furnished by a specified quantity of the product when consumed during a period of 1 day.

DISPOSITION: February 12, 1945. No claimant having appeared, judgment was entered ordering the product destroyed.

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¹ (7905) Contains opinion of the court.

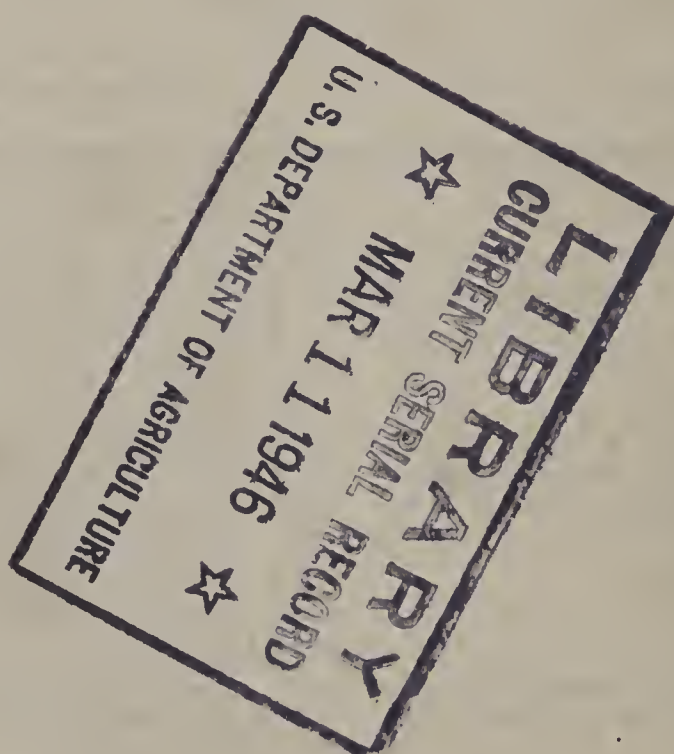
² (7920) Seizure contested.

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¹ (7905) Contains opinion of the court.

² (7920) Seizure contested.



FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

7926-8100

FOODS

The cases reported herewith were instituted in the United States District Courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

MAURICE COLLINS, *Acting Administrator, Federal Security Agency.*

WASHINGTON, D. C., *December 7, 1945.*

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BEVERAGES AND BEVERAGE MATERIALS*

7926. Adulteration of beer and ale. U. S. v. Commonwealth Brewing Corporation and Leo Kaufman. Pleas of not guilty. Tried to the court and jury. Verdict of guilty. Fines, \$5,000 against both defendants. Individual defendant also given suspended sentence of 6 months in jail and placed on probation for 3 years. (F. D. C. No. 14309. Sample Nos. 63580-F, 63585-F, 63588-F, 63600-F, 63929-F, 79691-F, 79740-F to 79744-F, incl.)

INDICTMENT RETURNED: March 7, 1945, District of Massachusetts, against the Commonwealth Brewing Corporation and Leo Kaufman, treasurer and manager, Springfield, Mass.

ALLEGED SHIPMENT: Between the approximate dates of August 30 and September 29, 1944, from the State of Massachusetts into the States of South Carolina, Florida, Virginia, and West Virginia.

LABEL, IN PART: "Gold Medal Tivoli Beer," "Worcester Stock Ale," "Bay State Beer," "Oxford Brand Beer," "Dartmouth Cream Ale," and "New England Ale."

VIOLATION CHARGED: Adulteration, Section 402 (a) (2), the product contained an added poisonous or deleterious substance, fluorine, which was unsafe within

*See also Nos. 8089, 8097.

the meaning of the law since it was not required in the production of the product and could have been avoided by good manufacturing practice.

DISPOSITION: Pleas of not guilty having been entered on behalf of the defendants, the case came on for trial before a jury on May 22, 1945, at the conclusion of which the court delivered the following instructions to the jury:

FORD, *District Judge*: "Before I explain to you what a reasonable doubt is,—it has been explained to you in more or less detail by one of the counsel—before I come to that, gentlemen, I want to say to you what our different provinces are. Counsel has explained them to you.

"The facts are for you. You, as has been said by counsel, are the sole arbiters of the facts, to decide the facts. I give you the law, and you must take your law from me. If I make an error with respect to the applicable principles of law, then of course I can be corrected by a higher court. The credibility of the witnesses is for you. Do you believe the witnesses? Do you believe them in whole or do you believe them in part? The credibility of the witnesses is for you, as I have said.

"Now, when you pass upon the credibility of a witness decide whether or not he is telling the truth, deciding what part, if any, of the evidence is credible, then of course you can take into consideration his appearance on the stand, the manner in which he answered the questions, whether he has any bias or prejudice with respect to the case itself, and generally decide how much of his evidence—*any* witness in *any* case—how much of his evidence you will believe in looking at him, hearing him. That is your province exclusively.

"There is one other principle here that is applicable. Failure of the defendant here, the individual defendant, Kaufman, to take the stand and testify in his behalf, raises no presumption against him. No prejudice must arise against him for not taking the stand. That applicable rule and principle is expressed in a United States case which reads as follows: 'In the trial of all indictments against persons charged with the commission of crimes in the United States Court, the person so charged shall of his own request be a competent witness and his failure to make such request shall not create any presumption against him.' That is, he is not obliged to testify, gentlemen, unless he desires to. He may testify if he wishes, and if he does not he cannot be prejudiced because of that fact.

"Now, I said to you that the burden is upon the Government to prove every essential element of the offence charged beyond a reasonable doubt, and later I shall go on and tell you what the Government charges, what the essential elements of the charges are in detail.

"Counsel has described to you, has defined what a reasonable doubt is, proof beyond a reasonable doubt, and I like to read what has been said by, if not the Supreme Court, one of the other courts, in deciding what a reasonable doubt is, the quantum of proof, how much proof the Government must adduce before you would be warranted in finding a defendant in any case guilty. 'Reasonable doubt is such a doubt as would affect the mind and judgment of the ordinarily reasonable and prudent person in making decisions on important matters.' Proof beyond a reasonable doubt has been defined correctly as 'not beyond all possible or imaginary doubt, * * * but such proof as precludes every reasonable hypothesis except that which it tends to support. It is proof to a moral certainty as distinguished from an absolute certainty.'

"It is said in other cases and at other times that it is proof beyond a probability but not an absolute certainty. 'The term "reasonable doubt" means a doubt which is substantial, not shadowy. It does not mean a doubt born of reluctance on the part of a juror to perform an unpleasant duty or a doubt arising out of sympathy for a defendant or out of anything other than a candid consideration of all the evidence presented.' 'While it is a requisite to a verdict of guilty that the prosecution prove the guilt of the accused beyond reasonable doubt, the doubt to the benefit whereof the accused is entitled must be the doubt that a rational sensible person may fairly entertain; not the doubt of a vascillating mind that has not the moral courage to decide.'

"Now, gentlemen, with those principles in mind, applicable to all criminal cases—and in all criminal cases the duty is imposed upon the Court to lay down those principles before proceeding to the charge, and it would be error on the part of the Court if those instructions were not presented to you—this brings us to the present indictment, Mr. Foreman and gentlemen, and the indictment with which we are concerned here is an indictment in eight counts, eight differ-

ent shipments, and each count charging a separate shipment in violation of Section 301a of the Food, Drug and Cosmetic Act. The indictment simply charges that these defendants introduced and delivered and caused to be introduced and delivered for introduction into Interstate Commerce the aforesaid certain food which was then and there adulterated within the meaning of said Act of Congress, and then defines the Act which I shall refer to in more or less detail. This is the charge in the indictment, and here is where you take it from, the indictment, the charge made in accordance with the applicable section of the statute. Here is where we find the essential elements of the charge which I shall point out to you and which the Government is required to prove beyond a reasonable doubt, in that 'it contained an added poison or deleterious poison, fluorine, which was unsafe within the meaning of the statute,' the particular section of the statute, 'since it was a substance not required in the production of this beer and could have been avoided by good manufacturing practice.'

"Now, we all know it generally, but there is a history back of the Food, Drug and Cosmetic Act. I think it was shortly after the turn of the century some time if I am correct, but I am sufficiently correct in saying, in 1906 I know, the Food and Drug Act was passed by Congress, and at that time Congress wanted to scrape out the evils that were present in the United States of America, with respect to the adulteration of foods, the presence of poisonous and deleterious and impure substances in food, and also to protect the public against fraud with respect to food products, misbranding by having labels misbranded where the public were being cheated.

"In 1906 Congress passed the Pure Food and Drug Act and with various amendments we come down to the Act, I think the date of this Act is 1938. It is now called the Pure Food, Drug and Cosmetic Act. Well, 'pure' is not in there, it is called the 'Food, Drug and Cosmetic Act.' We always find what the name of the Act is in the Act itself, and this designates it. It may give you some idea in the sections of this statute what Congress was going to do, in the sections where it defined an adulterated food. It said, 'A food shall be deemed to be adulterated if it bears or contains any poisonous or deleterious substances which may render it injurious to health.' I will have occasion to refer specifically to this question later. And note this also; 'but in case the substance is not an added substance,' and it becomes here a question of an added substance. Congress provided in this particular section, (a) (1) of 342 of 21 U. S. C. A.—that is not the exact section of the Act itself, I am reading Section 402—Congress said, 'In case the substance is not an added substance'—that is not our case, as I will point out to you later, 'but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health.' And the clause with which we are here concerned, the section of the statute under which this prosecution is brought, refers to food which may contain any added poisonous or added deleterious substance. Here we have the added aspect of substance where we did not have it in the first section which is 'unsafe within the meaning of Section 346,' because that is the section of the statute as I say under which this prosecution proceeds.

"Then it provides a section with respect to the presence of filthy, putrid or decomposed substances in the food, and then protected the public by the passage of this statute which Congress made as to food under unsanitary conditions so that the food would be rendered contaminated.

"I read those sections to you to show the purpose that Congress had in passing these food and drug acts. This act itself is denominated 'Food, Drug and Cosmetics.' It went along and protected the public in the same direction with reference to the adulteration and misbranding of cosmetics as well as food and drugs.

"Now, the section of the Act which the defendants are charged with violating here among those sections that I have just read is Section 301 of the Act. Section 301 of the Act prohibits the introduction or delivery into Interstate Commerce of any food that is adulterated, and since Congress here and the Act itself have defined food as meaning articles used for food or drink for man or other animals, the beer with which we are concerned here is a food.

"Congress further defined the meaning of 'adulterated food' as follows in Section 402, Subdivision (2), of the Act: 'A food shall be adulterated: If it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of Section 406,' and Section 406 of the Act

with which we are concerned here said that any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of this clause I have just read to you.

"With these pertinent clauses of the food and drug act in mind, we return to the indictment, as I said to you before, and find out what the Government charges and what are the essential elements that the Government must prove. The essential elements of the charge that the Government must prove beyond a reasonable doubt in order to warrant a conviction of the defendant corporation and the defendant Kaufman are: First, the Government charges, as I have read to you from the indictment, these defendants with making eight separate interstate shipments of beer. With respect to the corporation it is admitted here that the corporation actually shipped the beer. With respect to the defendant Kaufman I understand it is agreed that he was the treasurer of the corporation, its general manager, and I don't know that there has been any agreement that he actually participated or shared in the responsibility of shipping the beer. Is that disputed?"

MR. LEWIS: "Yes, your Honor."

THE COURT: "In view of the fact that it is disputed the burden is upon the Government to prove that Kaufman shared the responsibility of shipping this beer interstate. Even though it has appeared that the corporation actually shipped the beer, the corporation through its duly authorized agents, the burden is upon the Government to show that Kaufman himself individually participated in the shipment or he shared in the responsibility for the shipment, and when you decide this fact as to whether Kaufman shared in the responsibility of these shipments, you will take into consideration the fact—and I think it has been testified to here—that he owned all the stock in the corporation, that he was treasurer and clerk and general manager, and then take into consideration the evidence with respect to his control of the affairs of the brewery that have been testified to here and described to you by the Government inspector Hannigan, who interviewed him at the brewery and furnished to him the different ingredients or pieces of evidence that have been introduced here. Take that all into consideration in deciding the fact as to whether or not Kaufman himself individually, as treasurer of the corporation or general manager of the corporation shared in the responsibility of these shipments interstate, Mr. Foreman and gentlemen. That fact is for you to decide.

"Now we will proceed from the interstate aspect of this charge to the next essential element, that the Government charges—and I want you to have in mind that it must prove beyond a reasonable doubt—the Government charges and will have to prove to warrant a conviction of the defendants that fluorine in some form was added to the beer by the corporation, acting through its duly authorized agents, or by Kaufman, and I mean Kaufman through himself or his authorized agents or employees.

"I want to point out to you that it is entirely unimportant and irrelevant how much the quantity of fluorine was which was added to the beer. The issue is, Was fluorine in some form added as an ingredient? If, as one of the Supreme Court cases say, it is an added deleterious ingredient, the statute denounces that. It is an added deleterious ingredient the statute denounces, not an added quantity of the deleterious ingredient.

"Thus the gravamen or material charge in the section of the statute with which we are concerned is the addition of the deleterious substance and the quantity of the deleterious substance is of no moment. Hence, with respect to this element of the offence charged, if you find fluorine in any form was added,—and I say beyond a reasonable doubt,—then the Government has sustained its burden in that connection.

"To emphasize the fact—and I want to make this plain—that the quantity of fluorine added to the beer has no relevancy here, I think I might point out to you that there is a section of the Food and Drug Act—I have already read it—where the quantity contained in a food may be of considerable importance, and that is where it has been charged under Section 402 (a) (1) of the statute which deals with adulterated foods where the deleterious substance has not been added. That section reads as follows: 'A food shall be deemed to be adulterated (a) (1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health.'

"Quantity is of course important in determining whether or not it may be harmful, and quantity would be the test under this section, but not by any means under the section of the statute with which we are concerned here.

"Congress recognized that nature's products such as grain, salt, hops, water, contained poisonous substances in small amounts and that they were not a danger or evil so long as the poisonous substance was not extracted by artificial process and added, and the users of these substances in their product are not punishable provided the quantity of such substances in the food does not ordinarily render it injurious to health.

"To repeat, in this latter section that I have just read to you as to quantities, quantity is the test, but in the case of an added ingredient quantity is irrelevant and the only question involved where it is added is, was it added? Was it deleterious? Was it unsafe?

"There are some other considerations and some other matters of importance in this case that I want to point out to you at this point so that you will have these issues clearly before you and so that you will have an intelligent and a knowing idea of just what you are to decide here.

"It is of no importance under the section of the statute under which these defendants are being prosecuted that no evidence has been introduced to show someone drank this beer and was harmed. The question here is, not whether the beer was harmful—'deleterious' is the word in the statute, but whether the fluorine if it was added was harmful.

"It is of no importance that an expert witness who took fluorine into his system said he was not harmed as far as he knew. In fact, though he said he felt no harmful effects, yet he still may have been harmed, according to the evidence. What did he say? As I remember the testimony—and remember although I had a right to comment and give my opinion on the testimony, yet the testimony is for you in the last analysis—this witness said, as I remember, that he was not in a position to know whether he was harmed or not, but he felt no ill effects himself.

"The Government does not have to show in this case how much beer would have to be drunk to harm a person.

"It is of no importance in this case that tea or salt contain fluorine in quantities not harmful to health if ordinarily used.

"It is of no importance that one bottle of this beer or five or fifty would or would not be harmful if drunk. The question to keep before you is whether fluorine itself is harmful and poisonous, and if so the statute says it cannot be added in any form to a food product without running afoul of the law.

"Now, we pass on to the essential elements of the Government's charge. Is fluorine a poisonous or deleterious substance? You have heard the testimony of all the experts with respect to this particular issue as to whether or not fluorine is deleterious or harmful. You heard the testimony, I think it was of Professor Carlson, how he described it. I think he said that eight parts in a million were harmful, that it was harmful if it contained, or anything contained eight parts in a million. And then you heard the testimony of other experts with respect to whether or not this fluorine was a poisonous or deleterious substance.

"These words in the statute, 'poisonous and deleterious' have their plain, natural meaning, Mr. Foreman and gentlemen, and 'poisonous' defined by Webster's New International Dictionary is, 'Any agent which, introduced into an organism, may chemically produce an injurious or deadly effect'. And 'deleterious' is defined as 'hurtful or destructive'.

"Take into consideration—I am not going to repeat it in detail—all the evidence you have heard here. Take into consideration the fact that fluorine would kill rats, take into consideration the testimony of the Professor, Dr. McNally, for the defendant, who said, I believe, that if he drank enough fluorine, assuming that it contained 15.2 parts per million, if he drank about 15 bottles of this beer he would be apprehensive at that point because he had given about that amount of fluorine to rats and killed rats with it.

"Now, taking into consideration the plain meaning of the word 'poison', that poison in any agent which, introduced in an organism, may chemically produce an injurious effect, and taking again into consideration, keeping in mind 'deleterious', its plain meaning, natural meaning in the statute, that it means hurtful or destructive, on all the evidence you have heard here, answer the question in your own minds.

"The Government must prove beyond a reasonable doubt, of course, that essential element of the offense and you decide that issue, is fluorine a poisonous, deleterious substance?

"I cannot impress upon you too much but to point out to you again, to repeat, that the issue is whether this beer that these defendants put out, that the corporation put out, that Kaufman put out, and sent interstate is deleterious. The question is, is fluorine itself deleterious?"

"The next element the Government must prove is that the fluorine was unsafe within the meaning of the statute, and what is unsafe has been defined, so I charge you that if the Government has proved beyond a reasonable doubt that the fluorine was not required and could be avoided by good manufacturing practice, you would be warranted in finding that the beer was unsafe, the food here or beer was unsafe within the meaning of the statute.

"We have had with respect to that particular issue the testimony of the brewer from the Boston Brewing Company. There was no other evidence in the case on that point. He said categorically, as I remember, that fluorine was not necessary in the production of beer and it could be avoided by good manufacturing practice.

"I have outlined all the essential elements charged, and if you can find that the Government has proved them all beyond a reasonable doubt you will find both the defendants guilty. On the other hand, if the Government has failed to prove any one of the essential elements of the charge, you will find the defendants not guilty.

"There is just one other matter and I am done. In many offences that we try here in the criminal court, intent, knowledge or conscious wrong-doing is an essential element of the offence. This is referred to generally and commonly as 'criminal intent'. However, the Government does not have to establish any criminal intent here. Kaufman, if he shipped beer or shared in the responsibility or participated in the shipping of this beer interstate, did so at his own risk. The Government does not have to prove he knew it contained fluorine. If he shared in the responsibility of the shipments, the beer contained added fluorine and that fluorine was poisonous and deleterious and unsafe within the meaning of the statute, that is, it was adulterated, it would be of no consequence whether or not the beer was adulterated through his intention or negligence, or that he had knowledge of it or that he was acting in good faith. As Mr. Lewis pointed out here good faith is no defense, and as I said before, the defendants, if they shipped adulterated beer, they did so at their own risk.

"There is just one other matter to point out to you. In a criminal case verdicts are rendered orally. When you return to this court room you will be asked to give me your verdict with respect to each separate count and you will be asked whether or not you find the defendants guilty or not guilty, with respect to Count One right through to Count Eight.

"I will see counsel now."

(After a conference with counsel, the court further charged the jury):

THE COURT: "Just one additional thing, Mr. Foreman and gentlemen. You will take the case and retire to your jury room and decide it. It is not incumbent upon the Government, to show specifically how the fluorine, if you find it was added, was put into the beer. There has been no testimony as I understand it, and the Government experts could not determine the exact form in which it was put into the beer, so that I charge you that it is not incumbent on them to show specifically how the added substance, if it was added, was added. The burden is on them to show it was added. There is no burden upon them to show how it came into the beer."

The jury returned a verdict of guilty on all counts against both defendants, and on June 6, 1945, the court imposed fines of \$5,000 against each defendant, and further imposed a suspended sentence of 6 months in jail upon the individual defendant and placed him on probation for 3 years.

7927. Adulteration of beer and ale. U. S. v. 1,160 Cases of Beer (and 30 other seizure actions against beer and ale). Decrees of condemnation. Products ordered destroyed. Cases and bottles in a number of instances ordered salvaged. (F. D. C. Nos. 13906, 13975, 13979, 14020, 14051, 14052, 14065, 14066, 14070, 14074, 14087 to 14090, incl., 14095, 14097, 14318, 14326, 14330, 14377, 14397, 14401, 14404, 14432, 14621, 14666, 14875, 14876, 14904, 15470, 15471. Sample Nos. 19218-F, 58893-F, 61385-F, 61934-F, 63594-F to 63600-F, incl., 63750-F, 63752-F to 63754-F, incl., 63778-F, 63929-F, 64201-F, 79687-F to 79691-F, incl., 79735-F, 79740-F to 79742-F, incl., 79931-F, 88236-F, 88247-F, 88559-F, 88562-F, 88569-F, 92918-F, 30930-H, 31508-H, 31509-H.)

LIBELS FILED: Between the approximate dates of October 7, 1944, and March 5, 1945, Middle and Western Districts of North Carolina, Eastern District of Texas, Southern District of Mississippi, Southern District of West Virginia, District of Maine, Southern District of Florida, Eastern District of Virginia,

District of Massachusetts, Southern District of California, and Western District of South Carolina.

ALLEGED SHIPMENT: Between the approximate dates of July 21 and November 2, 1944, in most instances by the Commonwealth Brewing Corporation, from Springfield and Boston, Mass. A number of lots which had been originally shipped by this firm were returned to Springfield during this period by the consignees from Jacksonville, Fla., Fayetteville, N. C., Richmond, Va., Schenectady, N. Y., Norfolk, Va., Raleigh, N. C., Charleston, W. Va., and Greenville, N. C. Two lots were shipped by the Manhattan Distributing Co., from Springfield, Mass., during the same period.

PRODUCT: Beer or ale: 17,628 cases at Springfield, Mass., 3,697 cases at Rock Hill, S. C., 2,158 cases at Norfolk, Va., 1,157 cases at Charlotte, N. C., 188 cases at Greenville, S. C., 494 cases at Gastonia, N. C., 1,298 cases at Aberdeen, N. C., 1,160 cases at Beaumont, Tex., 1,728 cases at Hattiesburg, Miss., 1,999 cases at Fort Fairfield, Maine, 96 cases at Jacksonville, Fla., 1,600 cases at Richmond, Va., 228 cases at Graham, N. C., 2,177 cases at Greensboro, N. C., 1,102 cases at Los Angeles, Calif., 680 cases at Inglewood, Calif., and 2,000 cases at Charleston, W. Va.

LABEL, IN PART: "Gold Medal Tivoli Beer [or "Bay State Beer," "Dartmouth Cream Ale," "Oxford Brand Beer," "Oxford Brand Ale," or "Victory Extra Rich Old Stock Beer"] Commonwealth Brewing Corporation, Springfield, Mass.," "New England Ale," or "Ace-Hi Brand Deluxe Beer Bottled Exclusively for Schafer Distributing Co. Little Rock, S. C. By Commonwealth Brewing Co. Springfield, Mass."

VIOLATION CHARGED: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, fluorine, which was unsafe within the meaning of the law since it was a substance not required in the production of the product and could have been avoided by good manufacturing practice.

DISPOSITION: Between October 17, 1944, and May 4, 1945. The Commonwealth Brewing Corporation, Springfield, Mass.; Ben Hefner, Beaumont, Tex.; Louis R. F. Murad, trading as the Central Distributing Co., and Lee Cassis, Charleston, W. Va.; the Charlotte Wine and Beer Distributing Co., Charlotte, N. C.; James Ingram, Los Angeles, Calif.; and Charles Ehrlich, Los Angeles, Calif., having appeared as claimants for respective lots, judgments of condemnation were entered and the products were ordered released, conditioned upon the destruction of the beer and ale. The bottles and cases were returned to the claimants or the shipper. No claimant having appeared for the remaining lots, judgments of condemnation were entered and the products were ordered destroyed. In some instances, the court ordered the cases and bottles salvaged.

7928. Adulteration of strawberry juice. U. S. v. 44 Cans of Strawberry Juice. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 10715. Sample No. 35602-F.)

LIBEL FILED: On or about September 11, 1943, Northern District of Georgia.

ALLEGED SHIPMENT: On or about June 28, 1943, by the Sunshine Packing Corporation, from North East, Pa.

PRODUCT: 44 5-gallon cans of strawberry juice at Atlanta, Ga.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: April 20, 1945. The Sunshine Packing Corporation, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be destroyed or brought into compliance with the law, under the supervision of an officer designated by the Federal Security Agency.

CEREALS AND CEREAL PRODUCTS

ALIMENTARY PASTES

7929. Adulteration of alimentary paste. U. S. v. The Kansas City Macaroni & Importing Co. (the American Beauty Macaroni Co. and the Western Union Macaroni Products Co.). Plea of guilty. Fine, \$750. (F. D. C. No. 12610. Sample Nos. 58134-F, 58139-F, 58246-F, 58350-F, 58351-F, 69124-F.)

INFORMATION FILED: November 6, 1944, District of Colorado, against the Kansas City Macaroni & Importing Co., a corporation, trading as the American Beauty Macaroni Co. and the Western Union Macaroni Products Co., Denver, Colo.

ALLEGED SHIPMENT: Between the approximate dates of January 10 and April 19, 1944, from the State of Colorado into the States of New Mexico and Wyoming.

LABEL, IN PART: "American Beauty * * * Vermicelli."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, rodent-type hairs, hair fragments similar to rodent hairs, insect fragments, and a feather barbule; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 8, 1945. A plea of guilty having been entered on behalf of the defendant, a fine of \$150 on each of 5 counts, a total of \$750, was imposed.

7930. Adulteration of alimentary paste. U. S. v. Dominick Glaviano (Capital Macaroni Manufacturing Co.). Plea of guilty. Fine, \$400. (F. D. C. No. 10566. Sample Nos. 17153-F, 17155-F, 17157-F, 17158-F.)

INFORMATION FILED: November 8, 1943, District of New Jersey, against Dominick Glaviano, manager of the Capital Macaroni Manufacturing Co., Jersey City, N. J.

ALLEGED SHIPMENT: Between the approximate dates of January 18 and 25, 1943, from the State of New Jersey into the State of New York.

LABEL, IN PART: "Capital Macaroni Brand * * * Spaghettini [or "Spaghetti"]."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, human hair fragments, insect fragments, and similar filth such as carbon fragments, rust fragments, dirt, a brush fragment, a fragment of paint, fragments of soot, a fragment of mica, wood splinters, plant fibers, and small pebbles; Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth; and, Section 402 (c), (portion) it bore or contained a coal-tar color other than one from a batch that had been certified.

DISPOSITION: March 24, 1944. A plea of guilty having been entered, the defendant was fined \$200 on each of 4 counts. On March 30, 1944, the fine was reduced to \$400.

7931. Adulteration and misbranding of alimentary pastes. U. S. v. Domino Macaroni Co. Plea of guilty. Fine, \$50 and costs. (F. D. C. No. 10592. Sample Nos. 6701-F, 6707-F, 43307-F, 43308-F, 43310-F to 43312-F, incl.)

INFORMATION FILED: November 18, 1943, Western District of Missouri, against the Domino Macaroni Co., a corporation, Springfield, Mo.

ALLEGED SHIPMENT: Between the approximate dates of December 29, 1942, and May 17, 1943, from the State of Missouri into the States of Tennessee, Oklahoma, and Kansas.

LABEL, IN PART: "Domino Med Egg Noodle," "Blue Jay Spaghetti," "Red Bird Brand Macaroni," or "Western Delight Brand Macaroni [or "Spaghetti"]."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent hair fragments, hair fragments resembling rodent hairs, insect fragments, larvae, and beetles; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

Misbranding, Section 403 (a), the statement, "Our product is manufactured in a modern plant under the most sanitary conditions," borne on the packages of a portion of the product, was false and misleading since the product was prepared under insanitary conditions.

DISPOSITION: April 23, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$5 on each of 10 counts, a total fine of \$50, plus costs.

7932. Adulteration of noodles. U. S. v. Howard G. Lee. Plea of guilty. Fine, \$500. (F. D. C. No. 12541. Sample Nos. 35039-F, 58573-F, 58755-F, 58756-F, 63224-F.)

INFORMATION FILED: April 17, 1945, District of Columbia, against Howard G. Lee, the manager of the Chung Wah Noodle Manufacturing Co., Washington, D. C.; charging that on March 22 and April 6, 1944, he manufactured in the District of Columbia a quantity of noodles that were adulterated; and that on March 20

and 21 he introduced into commerce in the District of Columbia and, on March 22, 1944, shipped to Atlanta, Ga., quantities of noodles similarly adulterated.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, hair fragments resembling rodent hair fragments, insect fragments, and dark, foreign material; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 17, 1945. The defendant having entered a plea of guilty, a fine of \$100 on each of 5 counts, a total of \$500, was imposed.

7933. Adulteration and misbranding of noodles. U. S. v. Kurtz Brothers. Plea of nolo contendere. Fine, \$250. (F. D. C. No. 14241. Sample Nos. 51197-F, 51198-F.)

INFORMATION FILED: January 23, 1945, Eastern District of Pennsylvania, against Kurtz Brothers, a partnership, Bridgeport, Pa.

ALLEGED SHIPMENT: On or about February 3, 1944, from the State of Pennsylvania into the State of Delaware.

LABEL, IN PART: "Kurtz [or "King Brand"] Pure Egg Noodles."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, eggs, had been in whole or in part omitted, in that the product purported to be and was represented as egg noodles, a product which should contain not less than 5½ percent of egg solids, whereas it contained less than that amount; and, Section 402 (b) (2), noodles deficient in egg solids had been substituted in whole or in part for egg noodles.

Misbranding, Section 403 (a), the label statement "Pure Egg Noodles" was false and misleading.

DISPOSITION: March 23, 1945. A plea of nolo contendere having been entered, the defendant was fined \$250.

7934. Adulteration and misbranding of ravioli dinner. U. S. v. 49 Cartons of Ravioli Dinner. Decree ordering product delivered to charitable institutions or destroyed. (F. D. C. No. 12694. Sample No. 40425-F.)

LIBEL FILED: June 16, 1944, District of Minnesota.

ALLEGED SHIPMENT: On or about April 19 and 22, 1944, by Wyler & Co., from Chicago, Ill.

PRODUCT: 49 cartons, each containing 12 4½-ounce packages, of ravioli dinner at Minneapolis, Minn. Analysis showed that the product was an alimentary paste in the shape of hollow forms, with a seasoning mixture composed of the ingredients declared on the label, except that no dehydrated tomato or tapioca starch were detected. The product was not a ravioli dinner, ravioli being shells or cases of thin noodle dough containing a filling of chopped meat of some kind.

LABEL, IN PART: (Packages) "Wyler's Ravioli Dinner Complete in One Package * * * Ingredients For Ravioli Dinner Wyler's Bouillon; Salt; Grated Cheese; Dehydrated Tomato, Onion and Garlic Powders; Dextrose; Vegetable Protein Derivative (an artificial seasoning); Corn and Tapioca Starch; Spice; and Special Novelty Macaroni."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, meat, had been in whole or in part omitted from the article.

Misbranding, Section 403 (a), the statement, "Ravioli Dinner Complete in One Package," was false and misleading as applied to the article, which contained no meat ingredient.

DISPOSITION: April 11, 1945. The sole intervener having withdrawn his claim, the product was ordered delivered to charitable institutions or destroyed.

BAKERY PRODUCTS

7935. Adulteration of bread. U. S. v. Nolte Baking Co. Plea of guilty. Fine \$1,500. (F. D. C. No. 12576. Sample Nos. 50131-F, 50133-F, 50135-F.)

INFORMATION FILED: November 9, 1944, Northern District of West Virginia, against the Nolte Baking Co., a corporation, Wheeling, W. Va.

ALLEGED SHIPMENT: On or about November 23, 1943, from the State of West Virginia into the State of Ohio.

LABEL, IN PART: "Nolte's Rye Fresh [or "Enriched Bread Nolte's Golden-Krust"]."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of whole insects, insect fragments, rodent hair fragments, and a rodent excreta pellet; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 9, 1944. A plea of guilty having been entered on behalf of the defendant, a fine of \$750 on each of 2 counts, a total of \$1,500, was imposed.

7936. Adulteration of bread. U. S. v. Safeway Stores, Inc. Plea of guilty. Fine, \$60 and costs. (F. D. C. No. 12609. Sample Nos. 70615-F, 70617-F, 70618-F, 71605-F.)

INFORMATION FILED: December 6, 1944, Western District of Washington, against the Safeway Stores, Inc., Seattle, Wash.

ALLEGED SHIPMENT: On or about March 19 and 22, 1944, from the State of Washington into the State of Idaho.

LABEL, IN PART: (Wrappers) "Julia Lee Wright's Sliced Wheat Wheat [or "Enriched White," or "Sandwich White Enriched White"] Bread."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, head capsules, insect fragments, one grain beetle, and rodent hairs; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 26, 1944. A plea of guilty having been entered on behalf of the defendant, a fine of \$15 on each count, a total of \$60, plus costs, was imposed.

7937. Adulteration of bread. U. S. v. Safeway Stores, Inc. Plea of guilty. Fine, \$100. (F. D. C. No. 14259. Sample Nos. 36738-F to 36743-F, incl.)

INFORMATION FILED: February 7, 1945, District of Utah, against the Safeway Stores, Inc., Salt Lake City, Utah.

ALLEGED SHIPMENT: On or about April 26 and 28, 1944, from the State of Utah into the State of Idaho.

LABEL, IN PART: "Julia Lee Wright's Sliced White [or "Sliced Wheat Wheat Bread," or "Enriched White Bread Sliced White"]."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hairs, hairs resembling rodent or cat hairs, and a feather fragment; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 13, 1945. A plea of guilty having been entered on behalf of the defendant, a fine of \$50 on count 1 and \$25 on each of the remaining 2 counts, a total of \$100, was imposed.

7938. Adulteration of bread. U. S. v. Safeway Stores, Inc. Plea of nolo contendere. Fine, \$500. (F. D. C. No. 14274. Sample Nos. 68951-F, 69168-F, 69170-F, 69171-F, 69175-F, 69179-F.)

INFORMATION FILED: February 21, 1945, District of Colorado, against the Safeway Stores, Inc., Denver, Colo.

ALLEGED SHIPMENT: Between the approximate dates of May 18 and July 7, 1944, from the State of Colorado into the States of New Mexico, Nebraska, and Wyoming.

LABEL, IN PART: "Julia Lee Wright's Sliced White [or "Cracked Wheat Bread," or "Rye Bread"]."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, a hair resembling a rodent hair, rodent hair fragments, a hair fragment similar to a rodent hair, a whole insect, insect fragments, and nondescript dirt; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 10, 1945. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$100 on each count, a total of \$500, was imposed.

7939. Adulteration of bread. U. S. v. Vernon R. Lewis (Aunt Betty Baking Co.). Plea of guilty. Fine, \$100. Imposition of jail sentence suspended for 1 year, and defendant placed on probation. (F. D. C. No. 14239. Sample No. 60892-F.)

INFORMATION FILED: December 29, 1944, Eastern District of Texas, against Vernon R. Lewis, trading as the Aunt Betty Baking Co., Texarkana, Tex.

ALLEGED SHIPMENT: On or about May 1, 1944, from the State of Texas into the State of Arkansas.

LABEL, IN PART: "Aunt Betty Bread."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, a mite, and a rodent hair; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 15, 1945. A plea of guilty having been entered, the defendant was fined \$100. Imposition of jail sentence was suspended for 1 year, and the defendant was placed on probation.

7940. Adulteration of bread. U. S. v. Barbara Ann Baking Co., Ltd. Plea of nolo contendere. Fine, \$500 on count 1; sentence suspended on second count for a period of 2 years. (F. D. C. No. 12618. Sample Nos. 54329-F, 54345-F.)

INFORMATION FILED: November 24, 1944, Southern District of California, against the Barbara Ann Baking Co., Ltd., a corporation, Los Angeles, Calif.

ALLEGED SHIPMENT: On or about March 30 and April 19, 1944, from the State of California into the State of Arizona.

LABEL, IN PART: (Portion) "Barbara Ann Enriched Bread."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and fragments resembling rodent hairs; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 15, 1945. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$500 on count 1 was imposed. Sentence was suspended on count 2 for a period of 2 years, conditioned that the defendant not violate any Federal or State laws.

7941. Adulteration of bread. U. S. v. Interstate Bakeries Corporation. Plea of nolo contendere. Fine, \$500 on count 1; sentence suspended on 2 other counts for a period of 2 years. (F. D. C. No. 12617. Sample Nos. 13743-F, 39556-F, 39683-F.)

INFORMATION FILED: On November 24, 1944, in the Southern District of California against the Interstate Bakeries Corporation, Los Angeles, Calif.

ALLEGED SHIPMENT: Between the approximate dates of April 6 and 21, 1944, from the State of California into the State of Arizona.

LABEL, IN PART: "Log Cabin Butter-Nut * * * Sliced Bread White Enriched * * * Log Cabin Bread Co. Los Angeles, Calif.," or "Weber's White Sliced Bread Lone Ranger."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts, rodent hair fragments, hair fragments resembling rodent hair, and a feather barbule; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 15, 1945. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$500 on 1 count was imposed. Sentence was suspended on the 2 remaining counts for a period of 2 years, conditioned that the defendant not violate any Federal or State laws.

7942. Adulteration of bread and cake. U. S. v. Purity Bread Co. Plea of guilty. Fine, \$30. (F. D. C. No. 14290. Sample Nos. 85616-F, 85619-F, 85626-F.)

INFORMATION FILED: On or about April 2, 1945, District of Montana, against the Purity Bread Co., a corporation, Billings, Mont.

ALLEGED SHIPMENT: On or about August 19, 1944, from the State of Montana into the State of Wyoming.

LABEL, IN PART: "Purity Sliced White is good Bread. Vitamin Enriched," or "Say Purity * * * Fruit Rolls [or "Jelly Rolls"]."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insect fragments, rodent hair fragments, and a feather barbule; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: April 18, 1945. A plea of guilty was entered on behalf of the defendant, and the court imposed a fine of \$30.

7943. Adulteration of bread and rolls. U. S. v. Fisher Baking Co. Plea of guilty. Fine, \$200. (F. D. C. No. 14279. Sample Nos. 36580-F, 36581-F, 58037-F, 58038-F.)

INDICTMENT RETURNED: March 29, 1945, District of Utah, against the Fisher Baking Co., a corporation, Salt Lake City, Utah.

ALLEGED SHIPMENT: On or about February 7 and March 24, 1944, from the State of Utah into the States of Colorado and Nevada.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent hairs, hairs resembling rodent hairs, and a feather barbule; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: April 6, 1945. A plea of guilty having been entered on behalf of the defendant, a fine of \$50 on each of 4 counts was imposed.

7944. Adulteration and misbranding of enriched bread. U. S. v. Midwest Bakery & Macaroni Co. (Roma Bakery). Plea of guilty. Fine, \$100 and costs. (F. D. C. No. 14217. Sample Nos. 43498-F, 66732-F.)

INFORMATION FILED: December 18, 1944, Western District of Missouri, against the Midwest Bakery & Macaroni Co., a corporation trading as the Roma Bakery, Kansas City, Mo.

ALLEGED SHIPMENT: On or about September 15, 1943, and March 22, 1944, from the State of Missouri into the State of Kansas.

LABEL, IN PART: (Wrappers) "Enriched Jumbo Bread."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B₁, had been in whole or in part omitted, in that the article was represented to contain in each 6 ounces at least 37½ percent of the minimum daily requirement for vitamin B₁, whereas a portion contained not more than 25 percent, and the remainder contained not more than 15 percent, in each 6 ounces, of the minimum daily requirement for vitamin B₁.

Misbranding, Section 403 (a), the label statements, "Six ounces of this bread supply you with at least the following amounts or percentages of your minimum daily requirements for these essential food elements: Vitamin B₁ (37½%)," were false and misleading.

Further misbranding (portion), Section 403 (a), the label statement, "Enriched Jumbo Bread," was false and misleading in that it represented and suggested that the article contained the nutritional elements which are contained in bread made from enriched flour, i. e., not less than 1.1 milligram of vitamin B₁, not less than 0.7 milligram of riboflavin, and not less than 10 milligrams of niacin or niacin amide per pound, whereas the article contained not more than 0.29 milligram of vitamin B₁, not more than 0.43 milligram of riboflavin, and not more than 5.2 milligrams of niacin or niacin amide per pound.

DISPOSITION: January 5, 1945. A plea of guilty having been entered on behalf of the defendant, a fine of \$25 on each count, a total of \$100 plus costs, was imposed.

7945. Adulteration and misbranding of bread and rolls. U. S. v. Spengler's Bakery Co. Plea of guilty. Fine, \$550. (F. D. C. No. 14258. Sample Nos. 30089-F, 71720-F, 71722-F, 71727-F.)

INFORMATION FILED: January 18, 1945, District of Idaho, against Spengler's Bakery Co., a corporation, Lewiston, Idaho.

ALLEGED SHIPMENT: On or about May 12, 14, and 16, 1944, from the State of Idaho into the State of Washington.

LABEL, IN PART: "Pan Rolls * * * Spenglers," or "Butter-Nut 1½ Lbs Sliced White Bread."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the rolls consisted in whole or in part of filthy substances by reason of the presence of worm

capsules, beetles, storage insect fragments, storage larvae or capsules, storage larvae fragments, rodent hairs, and feather fragments; and, Section 402 (a) (4), the rolls and a portion of the bread had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

Misbranding, Section 403 (e) (2), the bread failed to bear a label containing an accurate statement of the quantity of the contents, since the loaves weighed less than "1½ Lbs."

DISPOSITION: May 14, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$150 on each of 3 counts in the information, and \$50 on the remaining 2 counts, a total fine of \$550.

7946. Misbranding of bread. U. S. v. Three Brothers Baking Co. Plea of nolo contendere. Fine, \$75. (F. D. C. No. 14246. Sample Nos. 70861-F, 70975-F, 71054-F.)

INFORMATION FILED: January 11, 1945, District of Oregon, against the Three Brothers Baking Co., a corporation, Portland, Oreg.

ALLEGED SHIPMENT: Between the approximate dates of March 10 and June 6, 1944, from the State of Oregon into the State of Washington.

LABEL, IN PART: "Big Boy Bread * * * Sliced White 1½ Lbs."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents, since the loaves of bread weighed less than the declared weight.

DISPOSITION: January 26, 1945. A plea of nolo contendere having been entered on behalf of the corporation, a fine of \$25 on each of 3 counts, a total of \$75, was imposed.

7947. Misbranding of bread. U. S. v. Pioneer Baking Co., Inc. Plea of guilty. Fine, \$1,000. (F. D. C. No. 14271. Sample Nos. 60485-F, 72825-F.)

INFORMATION FILED: January 24, 1945, Northern District of California, against the Pioneer Baking Co., Inc., Sacramento, Calif.

ALLEGED SHIPMENT: On or about May 16 and July 25, 1944, from the State of California into the State of Nevada.

LABEL, IN PART: "Enriched Old Home Sliced White Bread [or "Betsy Ross The Old Fashioned Bread"] * * * Old Home Bakers, Sacramento, Calif."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents, since the loaves of bread were labeled "Net Wt. 1 Lb." or "Net Wt. 1½ Lbs.," and they weighed less than 1 pound or 1½ pounds, respectively.

DISPOSITION: February 21, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$500 on each of the 2 counts of the information.

7948. Adulteration of cake and bread. U. S. v. Southern Baking Corporation. Plea of nolo contendere. Fine, \$1,500 and costs; firm placed on 6 months' probation. (F. D. C. No. 12538. Sample Nos. 79411-F, 79412-F, 79415-F, 79417-F.)

INDICTMENT RETURNED: June 24, 1944, Southern District of West Virginia, against the Southern Baking Corporation, Bluefield, W. Va.

ALLEGED SHIPMENT: On or about April 4 and 7, 1944, from the State of West Virginia into the State of Virginia.

LABEL, IN PART: "Dainty Maid Cake 15¢ [or "5¢"]," or "Southern Pride Enriched Bread."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insect fragments, hair fragments resembling rodent hairs, insect larvae, a rodent hair, and a larva cast skin; and, Section 402 (a) (4), they had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: June 26, 1944. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$500 on count 1 and fines of \$1,000 on each of the other 2 counts, together with costs, were imposed. The fines on counts 2 and 3 were suspended and the defendant was placed on 6 months' probation. On February 1, 1945, the defendant having failed to comply satisfactorily by that date with the provisions of the law, the suspension of judgment on count 2 was set aside and the fine of \$1,000 was reinstated. On the

same date and in view of the fact that certain improvements had been made in the condition of the defendant's plant, the fine on the third count was dismissed.

7949. Adulteration of cake and bread. U. S. v. The L. D. Feuchtenberger Bakeries, Inc. Plea of nolo contendere. Fine \$1,000 on each of the 5 counts. Fines on counts 1 and 2 (\$2,000) paid. Payment of fines on last 3 counts suspended and defendant placed on probation for 6 months. Counts 3, 4, and 5 dismissed. (F. D. C. No. 11330. Sample Nos. 46238-F, 46244-F, 46265-F to 46267-F, incl., 46269-F, 46270-F.)

INDICTMENT RETURNED: June 24, 1944, Southern District of West Virginia, against the L. D. Feuchtenberger Bakeries, Inc., Bluefield, W. Va.

ALLEGED SHIPMENT: Between the approximate dates of April 23 and June 18, 1943, from the State of West Virginia into the States of Virginia and Kentucky.

LABEL, IN PART: (Wrappers) "100% Whole Wheat Bread," "All American Butter-Nut Bread [or "Sandwich"]," or "Luxury Cake [or "Luxury Baked"] * * * Chocolate."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent hairs and insect fragments; and, Section 402 (a) (4), they had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: June 26, 1944. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$1,000 on each of the 5 counts, plus costs, was imposed. The court suspended payment of the fines on counts 3, 4, and 5, and placed the defendant on 6 months' probation. On February 1, 1945, the court ordered counts 3, 4, and 5 dismissed.

7950. Adulteration of cake. U. S. v. Mi-Oun Cake Co., Jacob J. Holterhoff, and Edward F. Holterhoff. Pleas of guilty. Company fined \$500; sentence suspended against individuals. (F. D. C. No. 12602. Sample Nos. 57050-F, 57051-F, 57053-F, 57056-F, 57057-F, 77909-F.)

INFORMATION FILED: November 21, 1944, District of New Jersey, against the Mi-Oun Cake Co., a partnership, Paterson, N. J., Jacob J. Holterhoff, a partner, and Edward F. Holterhoff, manager.

ALLEGED SHIPMENT: On or about February 8 and 9, 1944, from the State of New Jersey into the States of Pennsylvania and New York.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, insect fragments, cat hair fragments, and human hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 26, 1945. Pleas of guilty having been entered, the partnership was fined \$500, and sentence was suspended against the individual defendants.

7951. Adulteration of cookies and crackers. U. S. v. National Biscuit Co. Plea of nolo contendere. Fine, \$1,600. (F. D. C. No. 14254. Sample Nos. 36576-F to 36578-F, incl., 36599-F, 36733-F, 54037-F, 54038-F, 54040-F, 60291-F, 60292-F, 69843-F to 69845-F, incl., 69858-F, 70002-F.)

INFORMATION FILED: January 15, 1945, District of Colorado, against the National Biscuit Co., a corporation, Denver, Colo.

ALLEGED SHIPMENT: Between the approximate dates of March 16 and April 14, 1944, from the State of Colorado into the States of Utah, California, and Wyoming.

LABEL, IN PART: "Old Fashion Ginger Snaps," "Premium Crackers Salted," "Sugar Honey Maid Graham Crackers," "Nabisco Old Fashion Sugar Cookies," "Vanilla Brightons," "Macaroon Cookies," "Snow Flake Sodas Dainty-Crisp," "Nabisco Cracker Meal," or "Dandy Oyster Crackers."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of feather fragments, rodent hairs, insect body parts, insect mandibles, bee parts, insect fragments, a rodent excreta pellet fragment, feather barbules, rodent and cat hair fragments, other animal hair fragments, colored fiber, and nondescript dirt; and, Section 402 (a) (4), they had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: April 26, 1945. A plea of nolo contendere was entered on behalf of the defendant, and a fine of \$200 on each of 8 counts, a total of \$1,600, was imposed.

7952. Adulteration of pies. U. S. v. Pappas Pie & Baking Co. Plea of guilty. Fine, \$1,000. (F. D. C. No. 12622. Sample Nos. 47586-F, 47588-F to 47591-F, incl.)

INFORMATION FILED: November 17, 1944, Eastern District of Missouri, against the Pappas Pie & Baking Co., a corporation, St. Louis, Mo.

ALLEGED SHIPMENT: On or about December 15, 1943, from the State of Missouri into the State of Illinois.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, cat hairs, and an unidentified insect; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 15, 1945. A plea of guilty having been entered on behalf of the defendant, a fine of \$1,000 was imposed.

7953. Adulteration of pies and cakes. U. S. v. Tom Sorpas (Masters Pie Bakery). Plea of nolo contendere. Fine, \$1,000. (F. D. C. No. 11373. Sample Nos. 48985-F to 48989-F, incl.)

INFORMATION FILED: April 20, 1944, Southern District of Ohio, against Tom Sorpas, trading as the Masters Pie Bakery, Cincinnati, Ohio.

ALLEGED SHIPMENT: On or about October 12 and 13, 1943, from the State of Ohio into the State of Kentucky.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent hair fragments, hair fragments resembling rodent hairs, insect fragments, larvae, adult insects, and a fly; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: January 4, 1945. A plea of nolo contendere having been entered, the defendant was fined \$200 on each of 5 counts, a total of \$1,000.

7954. Adulteration of zwieback and rye hardtack. U. S. v. 1,080 Packages of Zwieback and 260 Packages of Rye Hardtack. Default decree of forfeiture. Products ordered delivered to a public institution, to be denatured and used for animal feed. (F. D. C. No. 14166. Sample Nos. 62156-F to 62160-F, incl.)

LIBEL FILED: November 1, 1944, Western District of Texas.

ALLEGED SHIPMENT: Between the approximate dates of August 28 and September 8, 1944, by the Ser Baking Co., Minneapolis, Minn.

PRODUCT: 1,080 packages of zwieback and 260 packages of rye hardtack, at San Antonio, Tex.

LABEL, IN PART: "Zwieback Ser-Toast," or "Swedish Style Rye Hard Tack (Knackerbrod) Ser-Ry."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae.

DISPOSITION: February 21, 1945. No claimant having appeared, judgment of forfeiture was entered and the products were ordered delivered to a public institution, to be denatured and used for animal feed.

CORN MEAL

7955. Adulteration and misbranding of corn meal. U. S. v. The Scott County Milling Co. Plea of guilty. Fine, \$1,600. (F. D. C. No. 12621. Sample Nos. 47854-F, 61413-F, 62480-F.)

INFORMATION FILED: February 21, 1945, Eastern District of Missouri, against the Scott County Milling Co., a corporation, Sikeston, Mo.

ALLEGED SHIPMENT: On or about October 11 and November 20, 1943, and February 15, 1944, from the State of Missouri into the States of Arkansas and Louisiana.

LABEL, IN PART: "Degerminated—Bolted—Steam Power—Pearl [or "Cream"] Corn Meal," and "Superior Brand Cream Corn Meal."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent

excreta, rodent hair fragments, hair fragments resembling rodent hair, insect fragments, and insect larvae.

Misbranding, Section 403 (e) (2), a portion of the product failed to bear a label containing an accurate statement of the quantity of the contents, since certain of the sacks bore the label statement "25 Lbs.," but contained less than 25 pounds.

DISPOSITION: April 9, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$500 on each of 3 counts and a fine of \$100 on the fourth count, a total of \$1,600.

7956. Adulteration of corn meal. U. S. v. Harry H. Sohn (Columbus Milling Co.).
Plea of guilty. Fine, \$250. (F. D. C. No. 14278. Sample No. 90514-F.)

INFORMATION FILED: February 21, 1945, Southern District of Indiana, against Harry H. Sohn, trading under the firm name of the Columbus Milling Co., Columbus, Ind.

ALLEGED SHIPMENT: On or about July 22, 1944, from the State of Indiana into the State of Ohio.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance because of the presence of rodent excreta fragments.

DISPOSITION: April 7, 1945. The defendant having entered a plea of guilty, the court imposed a fine of \$250.

7957. Adulteration of corn meal. U. S. v. 106 Bags of Corn Meal. Default decree of condemnation. Product ordered sold. (F. D. C. No. 13951. Sample No. 72482-F.)

LIBEL FILED: October 16, 1944, Western District of Tennessee.

ALLEGED SHIPMENT: On or about September 7, 1944, by the J. F. Weinmann Milling Co., from Little Rock, Ark.

PRODUCT: 106 10-pound bags of corn meal at Memphis, Tenn.

LABEL, IN PART: "Purity Bolted Cream Corn Meal Rose City Roller Mills."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments, rodent hair fragments, larvae, and insect fragments.

DISPOSITION: February 3, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold on condition that it should not be disposed of as human food.

FLOUR

Nos. 7958 to 7974 report actions involving flour that was insect- or rodent-infested, or both. (In those cases in which the time of contamination was determined, that fact is stated in the notice of judgment.) The flour reported in Nos. 7975 to 7978 failed to conform to the definition and standard for enriched flour.

7958. Adulteration of flour. U. S. v. 382 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 9986. Sample No. 23628-F.)

LIBEL FILED: May 21, 1943, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about February 18 and April 5, 1943, from Omaha, Nebr.

PRODUCT: 382 24-pound bags of flour at Lewistown, Pa., in possession of James A. Goss. The product was stored under insanitary conditions after shipment. Many of the bags were rodent-gnawed, and rodent excreta was found on and between the bags and in the flour in a torn bag. The bags were urine-stained.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 9, 1945. James A. Goss, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

7959. Adulteration of flour. U. S. v. 79 Bags and 8 Bags of Flour. Default decree of forfeiture and destruction. (F. D. C. No. 13417. Sample Nos. 89933-F, 89934-F.)

LIBEL FILED: On or about August 30, 1944, Western District of Missouri.

ALLEGED SHIPMENT: On or about March 3, 1944, by the Wichita Flour Mills Co., from Wichita, Kans.

PRODUCT: 79 bags, each containing 25 pounds, and 8 bags, each containing 50 pounds, of flour at Lebanon, Mo.

LABEL, IN PART: "Enriched Flour Kansas Expansion Flour Bleached."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and insect fragments.

DISPOSITION: October 2, 1944. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

7960. Adulteration of flour. U. S. v. 140 Bags and 190 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 13824. Sample No. 34925-F.)

LIBEL FILED: September 26, 1944, Northern District of Georgia.

ALLEGED SHIPMENT: On or about April 24, 1944, by the Ponca City Milling Co., Inc., from Ponca City, Okla.

PRODUCT: 140 50-pound bags and 190 25-pound bags of flour at Cartersville, Ga.

LABEL, IN PART: (Bags) "Supreme Flour Bleached Extra Fancy Patent."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and cast skins.

DISPOSITION: December 13, 1944. J. M. Veach & Co. Cartersville, Ga., claimant, having admitted the allegations in the libel, judgment of condemnation was entered and the product was ordered released under bond to be used in the manufacture of animal feed, under the supervision of the Food and Drug Administration.

7961. Adulteration of flour. U. S. v. 77 Bags and 54 Bags of Flour. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 13652. Sample Nos. 90296-F, 90297-F.)

LIBEL FILED: September 11, 1944, Western District of Arkansas.

ALLEGED SHIPMENT: On or about May 10, 1944, by the Riverview Mills Co., Topeka, Kans.

PRODUCT: 131 50-pound bags of flour at Hamburg, Ark.

LABEL, IN PART: "Lovely Lady Fine Patent Flour Bleached," or "Sno-Boy Finest All Purpose Flour Bleached."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and pupae.

DISPOSITION: October 4 and 6, 1944. W. E. Foote, Hamburg, Ark., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be denatured under the supervision of the Food and Drug Administration.

7962. Adulteration of flour. U. S. v. 32 Bags of Flour. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 13475. Sample No. 58994-F.)

LIBEL FILED: On or about September 1, 1944, Western District of Virginia.

ALLEGED SHIPMENT: On or about December 4, 1943, and February 11, 1944, from Louisville, Ky.

PRODUCT: 32 100-pound bags of flour at Danville, Va., in possession of J. W. Wyatt and Co. The product was stored under insanitary conditions after shipment. The bags were rodent-gnawed, and rodent pellets were observed on them. Examination showed that the article contained rodent pellets, rodent hair fragments, beetles, larvae, and insect fragments.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 28, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution, to be used for purposes other than human consumption.

7963. Adulteration of flour. U. S. v. 700 Bags and 700 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 12964. Sample Nos. 77476-F, 77477-F.)

LIBEL FILED: July 20, 1944, District of New Jersey.

ALLEGED SHIPMENT: On or about April 4 and 5, 1944, by Valier & Spies Milling Co., from St. Louis, Mo.

PRODUCT: 1,400 bags, each containing 100 pounds, of flour at Jersey City, N. J.

LABEL, IN PART: (Bags) "Valier's Gold Label Flour."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae and weevils.

DISPOSITION: March 7, 1945. The Joe Lowe Corporation, New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured for use as poultry or animal feed, under the supervision of the Federal Security Agency.

7964. Adulteration of corn flour. U. S. v. 598 Bags of Corn Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 12963. Sample No. 77478-F.)

LIBEL FILED: July 20, 1944, District of New Jersey.

ALLEGED SHIPMENT: On or about March 22, 1944, by the Decatur Milling Co., Inc., from Decatur, Ill.

PRODUCT: 598 bags, each containing 100 pounds, of corn flour at Jersey City, N. J.

LABEL, IN PART: "Ajax White Flour Milled from select White Corn."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

DISPOSITION: March 7, 1945. The Joe Lowe Corporation, New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured for use as poultry or animal feed, under the supervision of the Federal Security Agency.

7965. Adulteration of gluten flour and plain flour. U. S. v. 325 Bags of Gluten Flour and 196 Bags of Plain Flour. Default decree of condemnation. Products ordered delivered to a government agency and public institutions, for use as animal feed. (F. D. C. No. 13303. Sample Nos. 90217-F, 90218-F.)

LIBEL FILED: August 24, 1944, Western District of Kentucky.

ALLEGED SHIPMENT: On or about July 15, 1944, by the Larabee Mills, from Hutchinson, Kans.

PRODUCT: 325 100-pound bags of gluten flour and 196 100-pound bags of plain flour at Paducah, Ky.

LABEL, IN PART: "Bleached North Pole High Gluten Flour," or "Bleached Larabee Process High Top Flour."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of weevils, larvae, and insect fragments.

DISPOSITION: April 5, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered delivered to public institutions or agencies, for use as animal feed.

7966. Adulteration of pancake flour, pancake and waffle flour, and plain flour. U. S. v. 17 Cases of Pancake Flour, 20 Bales of Pancake and Waffle Flour, and 230 Sacks of Plain Flour. Decrees of condemnation. One lot ordered released under bond; remaining lot ordered destroyed. (F. D. C. Nos. 13424, 15414. Sample Nos. 80595-F, 18217-H, 18218-H.)

LIBELS FILED: August 26, 1944, and February 27, 1945, Western District of Arkansas and Northern District of Iowa.

ALLEGED SHIPMENT: On or about March 6 and November 13, 1943, by the Crete Mills, Crete, Nebr.

PRODUCT: 17 cases, each containing 10 5-pound packages, of pancake flour, and 20 bales, each containing 10 5-pound packages, of pancake and waffle flour at Dubuque, Iowa; and 230 48-pound sacks of plain flour at El Dorado, Ark.

LABEL, IN PART: "Victor Flour Bleached," "Victor Self-Rising Buckwheat Pancake Flour Compound," or "Victor Self-Rising Pancake and Waffle Flour."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of larvae, pupae, weevils, cast skins, and insect fragments.

DISPOSITION: March 24, 1945. The Dubuque Wholesale Grocers, Dubuque, Iowa, claimant for the Dubuque lot, having admitted the allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. On March 1, 1945, no claimant having appeared for the El Dorado lot, judgment of condemnation was entered and the product was ordered destroyed.

7967. Adulteration of phosphated flour and self-rising flour. U. S. v. 520 Bags of Phosphated Flour or Self-Rising Flour. Default decree of condemnation. Product ordered delivered to a public institution. (F. D. C. No. 13477. Sample No. 61646-F.)

LIBEL FILED: On or about September 5, 1944, Southern District of Alabama.

ALLEGED SHIPMENT: On or about October 23, 1943, by the Acme Mills, from Hopkinsville, Ky.

PRODUCT: 520 10-pound sacks of phosphated or self-rising flour at Selma, Ala.

LABEL, IN PART: "Bleached Phosphated Flour Enriched [or "Self-Rising Flour"] Veribest."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae.

DISPOSITION: November 8, 1944. No claimant having appeared, judgment of condemnation was entered and the products were ordered delivered to a public institution, to be used for purposes other than human consumption.

7968. Adulteration of self-rising flour and phosphated flour. U. S. v. 685 Bags of Self-Rising Flour and 1,280 Bags of Phosphated Flour. Default decree of condemnation. Products ordered delivered to a public institution, for use other than human consumption. (F. D. C. No. 13476. Sample No. 61645-F.)

LIBEL FILED: On or about September 8, 1944, Southern District of Alabama.

ALLEGED SHIPMENT: On or about February 8 and March 28, 1944, by the Yukon Mill and Grain Co., from Yukon, Okla.

PRODUCT: 685 5-pound bags of self-rising flour and 1,280 10-pound bags of phosphated flour, at Selma, Ala.

LABEL, IN PART: "Yukon's Best."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae.

DISPOSITION: November 8, 1944. No claimant having appeared, judgment of condemnation was entered and the products were ordered delivered to a public institution, for use other than human consumption.

7969. Adulteration of plain flour and self-rising flour. U. S. v. 374 Bags of Flour. Default decree of condemnation and destruction. (F. D. C. No. 14133. Sample No. 61768-F.)

LIBEL FILED: October 28, 1944, Middle District of Alabama.

ALLEGED SHIPMENT: On or about April 25, 1944, by the White Water Flour Mills Co., from White Water, Kans.

PRODUCT: 353 25-pound bags of self-rising flour and 21 50-pound bags of plain flour at Opp, Ala.

LABEL, IN PART: "White Water's Best."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae.

DISPOSITION: June 11, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

7970. Adulteration of plain flour and self-rising flour. U. S. v. 518 Sacks of Plain Flour and 495 Sacks of Self-Rising Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14148. Sample Nos. 61770-F, 61771-F.)

LIBEL FILED: October 28, 1944, Middle District of Alabama.

ALLEGED SHIPMENT: On or about December 13, 1943, and May 4, 1944, by Lawrenceburg Roller Mills Division, Acme-Evans Co., from Indianapolis, Ind.

PRODUCT: 365 25-pound sacks and 162 10-pound sacks of plain flour, and 150 10-pound sacks, 291 25-pound sacks, and 54 50-pound sacks of self-rising flour, at New Brockton, Ala. Examination showed that the products contained weevils and larvae.

LABEL, IN PART: "Tender Tex Enriched Flour Bleached [or "Bleached Self-Rising"]."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances.

DISPOSITION: February 12, 1945. S. T. Jones, New Brockton, Ala., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond to be manufactured into feed or denatured under the supervision of the Food and Drug Administration.

7971. Adulteration of self-rising flour. U. S. v. 130 Bags of Self-Rising Flour. Default decree of condemnation. Product ordered delivered to a public institution, for use other than human consumption. (F. D. C. No. 13478. Sample No. 61647-F.)

LIBEL FILED: On or about September 5, 1944, Southern District of Alabama.

ALLEGED SHIPMENT: On or about May 24, 1944, by the Randolph Milling Co., from Ava, Ill.

PRODUCT: 130 25-pound bags of self-rising flour at Selma, Ala.

LABEL, IN PART: "Bleached Self-Rising Flour Highest Patent Snow Crust
* * * Enriched."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

DISPOSITION: November 8, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution, to be used for purposes other than human consumption.

7972. Adulteration of soy flour. U. S. v. 65 Bags of Soy Flour. Default decree of condemnation. Product ordered sold to be denatured. (F. D. C. No. 13640. Sample No. 72099-F.)

LIBEL FILED: September 6, 1944, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about May 15, 1944, by the Central Soya Co., Inc., from Decatur, Ind.

PRODUCT: 65 100-pound bags of soy flour at St. Louis, Mo.

LABEL, IN PART: "Central Soya Hi-Soy A Controlled Blend of Defatted Soy Flour and Deodorized Soy Oil."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and insect fragments.

DISPOSITION: November 20, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold on condition that it should not be disposed of for human food. It was used as animal feed.

7973. Adulteration of whole wheat flour. U. S. v. 249 Bags of Whole Wheat Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 12867. Sample No. 72806-F.)

LIBEL FILED: July 6, 1944, Northern District of California.

ALLEGED SHIPMENT: On or about March 15, 1944, by the Royal Milling Co., from Great Falls, Mont.

PRODUCT: 249 bags, each containing 100 pounds, of whole wheat flour at Chico, Calif.

LABEL, IN PART: "Dependable Rex Whole Wheat Flour."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae and webbing.

DISPOSITION: September 28, 1944. The Log Cabin Baking Co., Chico, Calif., claimant, having admitted that the flour was adulterated, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

7974. Adulteration of whole wheat flour and plain flour. U. S. v. 29 Bags of Flour (and 2 other seizure actions against flour). Default decrees of condemnation. Products ordered sold or destroyed. (F. D. C. Nos. 13178, 13838, 15701. Sample Nos. 63803-F, 80611-F, 26047-H.)

LIBELS FILED: Between August 5, 1944, and March 27, 1945, Southern District of Illinois, Southern District of Florida, and District of New Mexico.

ALLEGED SHIPMENT: Between the approximate dates of May 29 and August 3, 1944, by General Mills, Inc., from Minneapolis, Minn., Wichita, Kans., and Amarillo, Tex.

PRODUCT: 29 100-pound bags of flour at Peoria, Ill., 25 100-pound bags of flour at Tampa, Fla., and 45 25-pound bags and 10 50-pound bags of flour at Clovis, N. Mex.

LABEL, IN PART: "High Protein Type Gold Medal Whole Wheat Flour," or "Star-Way Flour 100% Whole Wheat Flour Bleached Red Star Milling Company of General Mills, Inc.," or "PurAsnow * * * Enriched Flour Bleached."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of weevils, beetles, larvae, and insect fragments.

DISPOSITION: Between September 5, 1944, and April 27, 1945. No claimant having appeared, judgments of condemnation were entered. A portion of the flour was ordered sold and denatured, so that it could not be used for human consumption, and the remainder was ordered destroyed.

7975. Adulteration and misbranding of enriched flour. U. S. v. 750 Bags and 1,120 Bags of Enriched Flour. Default decree of condemnation and destruction. (F. D. C. No. 14463. Sample No. 62345-F.)

LIBEL FILED: November 13, 1944, Eastern District of Texas.

ALLEGED SHIPMENT: On or about October 12, 1944, by J. C. Lysle Milling Co., Leavenworth, Kans.

PRODUCT: 750 5-pound bags and 1,120 10-pound bags of enriched flour at Longview, Tex.

LABEL, IN PART: (Bags) "Bleached New Era Mills Perfect Flour White Crest Enriched."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), valuable constituents, thiamine (vitamin B₁) and iron, had been in part omitted from the product.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard for enriched flour since it contained (750 bags) approximately 1.12 milligrams of thiamine (vitamin B₁) and 9.17 milligrams of iron per pound, and (1,120 bags) approximately 1.09 milligrams of thiamine and 9.05 milligrams of iron per pound, whereas the standard requires 2.0 milligrams of thiamine and 13.0 milligrams of iron per pound.

DISPOSITION: January 2, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7976. Adulteration and misbranding of enriched self-rising flour. U. S. v. 52 Bundles (2,600 pounds) of Enriched Flour. Default decree of condemnation. Product ordered delivered to a public institution. (F. D. C. No. 14457. Sample No. 61769-F.)

LIBEL FILED: November 8, 1944, Middle District of Alabama.

ALLEGED SHIPMENT: On or about September 26, 1944, by the Mid-Kansas Milling Co., from Clay Center, Kans.

PRODUCT: 52 bundles, each containing 10 5-pound bags, of enriched self-rising flour, at Opp, Ala.

LABEL, IN PART: "Featherflake Bleached Flour Vitamin Enriched Flour Self-Rising."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), valuable constituents, thiamine (vitamin B₁) and iron, had been in part omitted from the product.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard for enriched flour since it contained approximately 0.94 milligram of thiamine (vitamin B₁) and 8.76 milligrams of iron per pound, whereas the standard requires not less than 2.0 milligrams of thiamine and 13.0 milligrams of iron per pound.

DISPOSITION: June 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. On June 20, 1945, an amended order was entered providing for the delivery of the product to a public institution, for use as hog feed.

7977. Adulteration and misbranding of enriched self-rising flour. U. S. v. 13 Bags of Self-Rising Flour. Default decree of condemnation and destruction. (F. D. C. No. 13695. Sample No. 61657-F.)

LIBEL FILED: On or about September 26, 1944, Northern District of Mississippi.

ALLEGED SHIPMENT: On or about August 10, 1944, by the Western Star Mill Co., from Salina, Kans.

PRODUCT: 13 bags, each containing 25 pounds, of enriched self-rising flour at Tupelo, Miss.

LABEL, IN PART: "Enriched * * * Colonial Girl Bleached Flour Self-Rising."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, thiamine (vitamin B₁), had been in part omitted from the article.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard for enriched self-rising flour since the standard requires that enriched self-rising flour shall contain in each pound not less than 2.0 milligrams of thiamine, but the product contained approximately 1.32 milligrams of thiamine per pound.

DISPOSITION: February 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7978. Adulteration and misbranding of enriched phosphated flour. U. S. v. 175 Bags of Enriched Phosphated Flour. Default decree of condemnation. Product ordered donated to charity. (F. D. C. No. 13984. Sample No. 72479-F.)

LIBEL FILED: November 4, 1944, Western District of Tennessee.

ALLEGED SHIPMENT: On or about September 2, 1944, by the Higginsville Flour Mill, Higginsville, Mo.

PRODUCT: 175 5-pound bags of enriched phosphated flour at Memphis, Tenn. Examination showed that the article contained approximately 1.0 milligram of vitamin B₁ and 9.6 milligrams of iron per pound. The definition and standard of identity for enriched flour, as amended, requires that it contain at least 2.0 milligrams of thiamine (vitamin B₁) and 13.0 milligrams of iron per pound.

LABEL, IN PART: "Enriched Phosphated Flour Bleached Vitamins and Iron."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), valuable constituents, thiamine and iron, had been in part omitted from the article.

Misbranding, Section 403 (g) (1), the product contained less thiamine and iron than is required by the standard for enriched flour.

DISPOSITION: December 12, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered donated to charity.

MISCELLANEOUS CEREAL PRODUCTS

7979. Adulteration of cereal binder. U. S. v. 80 Sacks of Cereal Binder. Decree ordering product released under bond. (F. D. C. No. 12638. Sample No. 60052-F.)

LIBEL FILED: June 7, 1944, Northern District of California.

ALLEGED SHIPMENT: On or about July 20, 1943, from Chicago, Ill.

PRODUCT: 80 125-pound sacks of cereal binder at San Francisco, Calif., in the possession of the Humboldt Warehouse of the Haslett Warehouse Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed and contained rodent excreta and urine stains. Examination of samples showed that the product contained rodent excreta, rodent hair, insects, insect fragments, and webbing.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 17, 1944. The Haslett Warehouse Co. having appeared as claimant, judgment was entered ordering the product released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

7980. Adulteration of rice. U. S. v. 200 Bags of Rice. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14060. Sample No. 63806-F.)

LIBEL FILED: October 26, 1944, Southern District of Florida.

ALLEGED SHIPMENT: On or about February 25, 1944, by the Republic Rice Mill, Inc., from Gueydan, La.

PRODUCT: 200 100-pound bags of rice at Tampa, Fla.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and insect fragments.

DISPOSITION: March 28, 1945. Alex Demmi, Tampa, Fla., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be disposed of in conformity with the law, under the supervision of the Food and Drug Administration. A portion was cleaned in order to eliminate all insect filth, and the remainder was converted into animal feed.

7981. Adulteration of rye meal. U. S. v. 60 Bags of Rye Meal. Default decree of condemnation and destruction. (F. D. C. No. 12655. Sample No. 60767-F.)

LIBEL FILED: June 12, 1944, Northern District of California.

ALLEGED SHIPMENT: On or about November 22, 1943, by Frank H. Blodgett, Inc., from Janesville, Wis.

PRODUCT: 60 98-pound bags of rye meal at San Francisco, Calif.

LABEL, IN PART: "Expressly Milled For Stieffvaters San Francisco Cal. * * * Pure Rock River Rye Meal."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, moths, insect excreta, and webbing.

DISPOSITION: March 3, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7982. Adulteration of starch. U. S. v. 22 Bags of Starch. Default decree of forfeiture and destruction. (F. D. C. No. 14129. Sample No. 79748-F.)

LIBEL FILED: On or about October 28, 1944, Western District of Virginia.

ALLEGED SHIPMENT: On or about March 9, 1944, from Chicago, Ill.

PRODUCT: 22 100-pound bags of starch at Roanoke, Va., in the possession of the Roanoke Public Warehouse. The article was stored under insanitary conditions after shipment. The bags were rodent-gnawed, and rodent pellets were observed on the bags. Examination showed that the article contained rodent pellets.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 12, 1945. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

7983. Adulteration of starch. U. S. v. 85 Bags of Starch. Decree ordering product released under bond. (F. D. C. No. 12656. Sample No. 60056-F.)

LIBEL FILED: June 9, 1944, Northern District of California.

ALLEGED SHIPMENT: On or about May 14, 1943, from Decatur, Ill.

PRODUCT: 85 140-pound bags of starch at Oakland, Calif., in the possession of the Haslett Warehouse Co. The product was stored under insanitary conditions after shipment. Much rodent activity had occurred on the stack as evi-

denced by chewed bags, rodent pellets, and quantities of nesting material. Examination of samples showed that the product contained rodent pellets and rodent hairs.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 17, 1944. The Haslett Warehouse Co. having appeared as claimant, judgment was entered ordering the product released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

7984. Adulteration of wheat bran. U. S. v. Colorado Milling and Elevator Co. Plea of nolo contendere. Fine, \$250. (F. D. C. No. 14249. Sample No. 69116-F.)

INFORMATION FILED: December 21, 1944, District of Colorado, against the Colorado Milling and Elevator Co., a corporation, Denver, Colo.

ALLEGED SHIPMENT: On or about April 13, 1944, from the State of Colorado into the State of Michigan.

LABEL, IN PART: "Pure Soft Wheat Bran Manufactured by The Mennel Milling Co. Toledo, Ohio."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, insect parts, feather barbules, mites, larva heads, and larva and beetle parts; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 5, 1945. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$250 was imposed.

CHOCOLATE, SUGARS, AND RELATED PRODUCTS

CANDY

7985. Adulteration of candy. U. S. v. Opera Chocolate Co., Inc., and Samuel I. Epstein. Pleas of guilty. Fine, \$400 against individual defendant; sentence suspended against corporate defendant. (F. D. C. No. 7652. Sample Nos. 54651-E, 84362-E, 84363-E, 89161-E, 89164-E.)

INFORMATION FILED: January 22, 1945, Southern District of New York, against the Opera Chocolate Co., Inc., New York, N. Y., and Samuel I. Epstein, president of the corporation.

ALLEGED SHIPMENT: Between the approximate dates of January 23 and March 10, 1942, from the State of New York into the States of Delaware, New Jersey, and Connecticut.

PRODUCT: Examination of the product showed the presence of rodent hairs, human hairs, cat hairs, dirt fragments, miscellaneous filth having the characteristics of rodent excreta, metal and soot fragments, wood splinters, and metal shavings.

LABEL, IN PART: "The Original Opera Fluffs," "Opera Peanut Squares," "Opera Nougatines," or "The Original Opera Chocolate Int. Cherry Frappe."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 6, 1945. Pleas of guilty having been entered, the court imposed a fine of \$100 on each of 4 counts, a total of \$400, against the individual defendant, and suspended sentence against the corporate defendant.

7986. Adulteration of candy. U. S. v. W. Bronson Palmer, Jr., Edward C. Palmer, and (Mrs.) Winogene E. Palmer, trustees of the Estate of W. B. Palmer (Palmer Candy Co). Plea of guilty. Fine, \$300 and costs. (F. D. C. No. 12591. Sample Nos. 40249-F, 40282-F, 67135-F.)

INFORMATION FILED: December 19, 1944, Northern District of Iowa, against W. Bronson Palmer, Jr., Edward C. Palmer, and Winogene E. Palmer, trustees of the estate of W. B. Palmer, trading as the Palmer Candy Co., Sioux City, Iowa.

ALLEGED SHIPMENT: Between the approximate dates of February 4 and March 27, 1944, from the State of Iowa into the States of Minnesota and Nebraska.

LABEL, IN PART: (Wrappers) "Toms Peanut Cluster," "Milk Chocolate Peanut Soo Cluster," or "Palmer's Cherry Bing."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hair fragments, an unidentified hair, a feather barbule, and a small piece of charred paper match; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 12, 1945. A plea of guilty having been entered on behalf of each and all of the defendants, a fine of \$100 on each of 3 counts was imposed.

7987. Adulteration of candy. U. S. v. James E. Harris (Harris Candy Co.). Plea of guilty. Fine, \$100. (F. D. C. No. 12611. Sample Nos. 37385-F, 37386-F, 53483-F, 53484-F, 53488-F, 53489-F, 59090-F to 59092-F, incl., 79344-F to 79346-F, incl.)

INFORMATION FILED: January 3, 1945, Eastern District of Virginia, against James E. Harris, trading as the Harris Candy Co., Richmond, Va. The information charged the defendant with delivering 3 lots of candy for shipment in interstate commerce, and with giving a false guaranty with respect to 2 other lots. The guaranty was given by the defendant to Russell Mansfield, Richmond, Va., on or about December 16, 1943. It provided that all food furnished by the defendant to the latter firm, then or thereafter, would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act. On or about March 18 and 22, 1944, the defendant sold and delivered to Russell Mansfield a quantity of candy that was adulterated.

The deliveries for shipment were made by the defendant from the State of Virginia into the States of North Carolina and West Virginia on or about December 4 and 9, 1943. On or about March 18 and 22, 1944, Russell Mansfield shipped from the State of Virginia into the States of West Virginia and North Carolina quantities of the candy which had been delivered to him and guaranteed by the defendant.

LABEL, IN PART: (Wrappers) "Nuffsed," or "Fudge Bar."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hair fragments, a whole insect, insect larvae, a pupa, hair fragments resembling rodent hair fragments, and a feather fragment; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 30, 1945. The defendant having entered a plea of guilty, a fine of \$100 was imposed.

7988. Adulteration and misbranding of candy. U. S. v. Charles O. McAfee (McAfee Candy Co.). Plea of nolo contendere. Fine, \$3,000. (F. D. C. No. 14230. Sample Nos. 35265-F, 63305-F, 63306-F.)

INFORMATION FILED: February 12, 1945, Middle District of Georgia, against Charles O. McAfee, trading as the McAfee Candy Co., Macon, Ga.

ALLEGED SHIPMENT: On or about April 14, 15, and 18, 1944, from the State of Georgia into the State of Florida.

LABEL, IN PART: "Spanish Peanut Bar 5¢ * * * Net Weight 2¼ Oz."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), puffed wheat had been substituted in part for peanuts in the product; and, Section 402 (b) (4), puffed wheat had been added to the product or mixed or packed with it so as to make it appear to be a peanut bar, which is better and of greater value than the product was.

Misbranding, Section 403 (a), the name of the product, "Spanish Peanut Bar," was false and misleading; and, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents, since the wrappers enclosing it bore the statement "Net Wt. 2¼ Oz.," which was inaccurate since the candy bars weighed less than that amount.

DISPOSITION: April 18, 1945. The defendant having entered a plea of nolo contendere, the court imposed a fine of \$3,000.

7989. Adulteration and misbranding of candy. U. S. v. Carlston Candy Co. Plea of guilty. Fine, \$100. (F. D. C. No. 14272. Sample Nos. 36591-F, 36595-F, 70020-F, 70021-F.)

INFORMATION FILED: February 7, 1945, District of Utah, against the Carlston Candy Co., a partnership, Salt Lake City, Utah.

ALLEGED SHIPMENT: On or about April 11 and June 3, 1944, from the State of Utah into the State of Idaho.

LABEL, IN PART: "Claudia Hand Rolled Chocolates," "Assorted Nougat Kisses * * * Net Weight 1 Lb.," "Carlston's English Humbugs * * * Net Contents: 1 Lb.," or "Peanut Brittle."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect body parts, an entire insect, rodent hairs, a hair resembling a rodent hair, cat or dog hairs, and feather fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Section 403 (e) (2), ("Nougat Kisses" and "Humbugs") the products failed to bear labels containing an accurate statement of the quantity of the contents in terms of weight, since the boxes were labeled "Net Weight 1 Lb." or "Net Contents 1 Lb." and contained less than 1 pound net weight.

DISPOSITION: February 24, 1945. A plea of guilty having been entered, a fine of \$10 on each of counts 1 and 2 and \$20 on each of counts 3, 4, 5, and 6, a total of \$100, was imposed.

7990. Adulteration and misbranding of candy. U. S. v. Blum's Confectionery. Plea of nolo contendere. Fine, \$100. (F. D. C. No. 12613. Sample Nos. 55841-F to 55843-F, incl., 71209-F, 76905-F.)

INFORMATION FILED: January 11, 1945, Northern District of California, against Blum's Confectionery, a partnership, San Francisco, Calif.

ALLEGED SHIPMENT: On or about March 2 and 4, 1944, from the State of California into the States of Oregon and New York.

LABEL, IN PART: "Made Exclusively For The U. S. Armed Forces By Blum's," "Our Own Special Assortment By Blum's," "Your Own Special Selection By Blum's," or "Hattie Blum."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent and cat hairs, and hairs resembling rodent and cat hairs; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

Misbranding (portion), Section 403 (e) (1), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), it failed to bear an accurate statement of the quantity of the contents; and, Section 403 (i) (1), its label failed to bear the common or usual name of the food and, Section 403 (i) (2), the common or usual name of each of the ingredients.

DISPOSITION: March 2, 1945. A plea of nolo contendere having been entered, the defendant was fined \$25 on each of 4 counts.

7991. Misbranding of candy. U. S. v. Fox Inter-Mountain Amusement Corporation. Plea of nolo contendere. Fine, \$450. (F. D. C. No. 14251. Sample Nos. 58253-F, 58257-F, 58260-F, 58262-F, 69089-F, 69091-F, 69153-F, 69256-F, 69409-F.)

INFORMATION FILED: January 2, 1945, District of Colorado, against the Fox Inter-Mountain Amusement Corporation, Denver, Colo.

ALLEGED SHIPMENT: Between the approximate dates of May 9 and June 2, 1944, from the State of Colorado into the States of Wyoming, Montana, and Idaho.

LABEL, IN PART: "Star Chocolate Clusters [or "Almond Mibs," "Licorice Cogs," or "Chocolate Coated Peanuts"] Contents 2½ Ozs. [or "Net Wt. 2½ Oz.]."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents, since the bags contained less than 2½ ounces of candy.

DISPOSITION: March 5, 1945. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$50 on each of 9 counts was imposed.

7992. Adulteration of candy. U. S. v. 941 Cases, 919 Cases, and 260 Cases of Candy. Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 11165, 11594. Sample Nos. 55943-F, 55945-F, 55966-F.)

LIBELS FILED: December 28, 1943, and January 15, 1944, Western District of Washington.

ALLEGED SHIPMENT: On or about September 1 and 22, 1943, by Westfeldt Bros. and Mississippi Shipping Line, New Orleans, La.

PRODUCT: 1,201 cases, each containing 50 6¼-ounce bars, and 919 cases, each containing 108 6¼-ounce bars, of candy at Seattle, Wash.

LABEL, IN PART: "Rubine Brand Cocoa Confection * * * United States Distributors: Cuban American Products Co. Inc. New York."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and insect fragments.

DISPOSITION: March 19, 1945. Safeway Stores, Inc., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond to be processed into animal feed or otherwise destroyed under the supervision of the Federal Security Agency.

7993. Adulteration of candy. U. S. v. 12 Boxes and 37 Boxes of Candy. Default decree of condemnation and destruction. (F. D. C. Nos. 13930, 13931. Sample Nos. 73281-F, 73282-F.)

LIBEL FILED: October 7, 1944, Northern District of California.

ALLEGED SHIPMENT: On or about January 31 and February 21, 1944, by Charlotte Charles, from Chicago, Ill.

PRODUCT: 49 1½-pound boxes of candy at San Francisco, Calif.

LABEL, IN PART: "Empress Eugenie's Favorite Sherry Pralines The Original French."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, webbing, and insect excreta.

DISPOSITION: March 3, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7994. Adulteration of candy. U. S. v. 346 Boxes of Candy. Default decree of condemnation and destruction. (F. D. C. No. 13826. Sample No. 65778-F.)

LIBEL FILED: September 26, 1944, Southern District of New York.

ALLEGED SHIPMENT: On or about July 24, 1944, by P. L. Langlois, New Orleans, La.

PRODUCT: 346 boxes, each containing 24 bars, of candy at New York, N. Y.

LABEL, IN PART: (Boxes) "5¢ Orchard Bars Mercury Candy Co. New York."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, insect excreta, and webbing.

DISPOSITION: October 23, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

MISCELLANEOUS SACCHARINE PRODUCTS

7995. Adulteration of chocolate coating. U. S. v. 297 Cases of Chocolate. Tried to the court. Judgment for the Government. Decree of condemnation and destruction. (F. D. C. No. 14174. Sample No. 89734-F.)

LIBEL FILED: On or about November 2, 1944, Eastern District of Missouri.

ALLEGED SHIPMENT: Between the approximate dates of December 9, 1943, and March 24, 1944, from Mansfield, Mass.

PRODUCT: 297 cases, each containing 5 10-pound bars, of chocolate coating, at St. Louis, Mo., in the possession of the St. Louis Terminal Warehouse No. 3. This product had been stored under insanitary conditions after shipment. It had been rodent-gnawed, and rodent pellets were observed in the cases. Examination showed that the product contained larvae, and insect and rodent excreta.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 25, 1945. The Tauber Candy Co., St. Louis, Mo., having appeared as claimant, the case was tried to the court. After hearing the evidence, the court found the product adulterated as alleged in the libel and ordered it condemned and destroyed.

7996. Adulteration of dextrose. U. S. v. 70 Bags of Dextrose. Default decree of condemnation. Product ordered sold and brought into compliance with the law. (F. D. C. No. 13965. Sample No. 89819-F.)

LIBEL FILED: October 17, 1944, Western District of Tennessee.

ALLEGED SHIPMENT: On or about July 26, 1944, from Clinton, Iowa.

PRODUCT: 70 100-pound bags of dextrose at Memphis, Tenn., in possession of the Rose Warehouse Co. The article had been stored under insanitary conditions after shipment. Pigeons had roosted on overhead pipes above the lot, and the outside of some of the bags had become contaminated with pigeon excreta. The excreta may have permeated the bags so as to contaminate the sugar itself.

VIOLATION CHARGED: Adulteration, Section 402 (a) (4), the product had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold on condition that it be brought into compliance with the law, under the supervision of the Federal Security Agency, by eliminating the external and contaminated portions.

7997. Adulteration and misbranding of sorghum sirup. U. S. v. Vernon E. Nicholson (V. E. Nicholson). Plea of guilty. Fine, \$100 on count 1; sentence on count 2 of \$100 and 90 days in jail suspended for 3 years. (F. D. C. No. 14211. Sample No. 30013-F.)

INFORMATION FILED: March 3, 1945, Eastern District of Texas, against Vernon E. Nicholson, trading as V. E. Nicholson, at Sulphur Springs, Tex.

ALLEGED SHIPMENT: On or about September 9, 1943, from the State of Texas into the State of Idaho.

LABEL, IN PART: "East Texas Sorghum Syrup Made of Sorghum Syrup and Corn Syrup Net Contents: 3 Quarts, 1 Pint."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), a mixture of corn sirup and partially refined sugar sirup, containing little if any sorghum sirup, had been substituted in whole or in part for sorghum sirup, which the article purported to be.

Misbranding, Section 403 (a), the label statements, "Sorghum Syrup," in large, conspicuous type, and "Made of Sorghum Syrup and Corn Syrup," in smaller and less conspicuous type, were false and misleading; Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents, since the jars contained less than 3 quarts and 1 pint of sirup; and, Section 403 (i) (2), the label failed to bear the common or usual name of each ingredient, since it failed to bear a statement that the article contained partially refined sugar sirup.

DISPOSITION: May 14, 1945. A plea of guilty having been entered, the defendant was fined \$100 on count 1, and a sentence on count 2 of \$100 and 90 days in jail was suspended for 3 years.

7998. Misbranding of sirup. U. S. v. 106 Cases of Sirup. Decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 12399. Sample No. 49978-F.)

LIBEL FILED: May 16, 1944, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about March 13, 1944, by the Victory Extract Manufacturing Co., from Rochester, N. Y.

PRODUCT: 106 cases, each containing 24 1-pint bottles, of sirup at Erie, Pa.

LABEL, IN PART: (Bottles) "Pan-Tree Brand Syrup * * * Pan-Tree Food Products Co. Division Victory Extract Mfg. Co. Rochester, N. Y."

VIOLATION CHARGED: Misbranding, Section 403 (c), the product was an imitation of another food, maple sirup, and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

DISPOSITION: March 13, 1945. The Food Products Co., Division of Victory Extract Manufacturing Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

7999. Adulteration and misbranding of maple sirup. U. S. v. 39 Cases of Maple Sirup. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 13271. Sample No. 70885-F.)

LIBEL FILED: August 23, 1944, Western District of Washington.

ALLEGED SHIPMENT: On or about June 28, 1944, by the American Roland Food Co., from New York, N. Y.

PRODUCT: 39 cases, each containing 24 6-ounce bottles, of sirup at Seattle, Wash.

LABEL, IN PART: "Roland 100% Grade A Pure Vermont Maple Syrup."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, maple sugar or maple sirup, had been in whole or in part omitted from the product; and, Section 402 (b) (2), sugar sirup, containing little or no maple sugar or maple sirup, had been substituted in whole or in part for maple sirup, which the product purported and was represented to be.

Misbranding, Section 403 (a), the label statement, "100% Grade A Pure Vermont Maple Syrup," was false and misleading as applied to a sirup containing little or no true maple sugar or maple sirup; Section 403 (c), the product was an imitation of another food, maple sirup, and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; and, Section 403 (i) (2), it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: May 31, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

8000. Misbranding of sirup. U. S. v. 127 Cases of Sirup. Default decree of condemnation. Product ordered delivered to public or charitable institutions. (F. D. C. No. 12278. Sample No. 51840-F.)

LIBEL FILED: April 29, 1944, District of Maine.

ALLEGED SHIPMENT: On or about January 28, 1944, by Quality Incorporated, from Boston, Mass.

PRODUCT: 127 cases, each containing 24 12-ounce bottles, of sirup at Portland, Maine.

LABEL, IN PART: (Bottles) "Qualy-Maple brand Syrup for Pancakes and Waffles Contains: Cane Sugar Syrup, Wheat Sugar Syrup, Water, Imitation Maple Flavor, and 1/10 of 1% Benzoate of Soda."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the statement "Qualy-Maple brand Syrup," with the words "Qualy," "Maple," and "Syrup" conspicuously displayed on the bottle label, was false and misleading as applied to a dark brown, sirupy liquid containing little or no maple sugar or maple sirup, with more water than is contained in maple sirup, and with a flavor simulating that of maple; Section 403 (b), the product was offered for sale under the name of another food, maple sirup; Section 403 (c), it was an imitation of maple sirup and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; and, Section 403 (f), the statement of the quantity of the contents, required by law to appear on the label, was not prominently placed thereon with such conspicuousness, as compared with other words, designs, or devices in the labeling, as to render it likely to be read by the ordinary individual under customary conditions of purchase and use, since it was in such small type as to be practically illegible.

DISPOSITION: March 22, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to public or charitable institutions.

DAIRY PRODUCTS

BUTTER

8001. Action to enjoin and restrain the interstate shipment of adulterated butter. U. S. v. Swift & Co., a corporation, and H. N. Bates. Tried to the court. Injunction granted. (Inj. No. 43.)

COMPLAINT FILED: December 19, 1942; amended April 8, 1943, Middle District of Georgia.

NATURE OF CHARGE: From on or about October 10, 1940, to the time the complaint was filed the defendant had been manufacturing, preparing, packing, shipping, and delivering for shipment, and had caused to be prepared, packed, shipped and delivered for shipment in interstate commerce, quantities of butter that was adulterated in the following manner: Section 402 (a) (3), (1) the product consisted in whole or in part of a decomposed substance by reason of the use in its manufacture of decomposed and putrid cream; (2) it consisted in whole or in part of a filthy substance by reason of the presence of mold, rodent hair fragments, maggots, feather parts, mites; insects, and such insect parts as fly fragments and larva fragments; and, Section 402 (a) (4), it had been manufactured and prepared under insanitary conditions whereby it may have become contaminated with filth, since in its manufacture the clean and fresh cream was mixed with the filthy, decomposed, and putrid cream, with cream that contained mold, rodent hair fragments, maggots, flies, feather parts, mites, and other insects and insect parts, all of which was run through the same filter and through the same churn; and in the cold storage room the product was accessible to rodents, which gnawed the boxes in which the butter was packed for shipment.

PRAYER OF COMPLAINT: That a preliminary injunction issue restraining the defendants from commission of the acts complained of and that, after due proceedings, the preliminary injunction be made permanent.

DISPOSITION: December 19, 1942. The defendants were ordered to show cause why a preliminary injunction should not issue as prayed. They filed a motion to strike and a motion for a more definite statement or bill of particulars. On April 8, 1943, an amended complaint was filed, setting out the allegations of adulteration with greater particularity. The defendants having filed an answer denying the adulteration charges, the case came on for trial before the court on December 13, 1943. The court, after hearing the evidence and arguments of counsel, took the case under advisement, and on December 31, 1943, made the following findings of fact and conclusions of law:

DEAVER, *District Judge:*

FINDINGS OF FACT

1.

"Swift & Company is a corporation with an office, agency, and place of business in Macon, Bibb County, Georgia.

2.

"Between October 10, 1940 and December 19, 1942, the Macon, Georgia, branch of Swift & Company was engaged in manufacturing butter, some of which was shipped in interstate commerce.

3.

"During said period Swift & Company shipped in interstate commerce butter manufactured from cream, some of which at times had in it rodent hair, feather parts, flies, maggots, and other such filth, and some of which was decomposed and contained mold.

4.

"The pure and clean cream in the process of manufacture was mixed with the decomposed cream and the cream which contained mold, rodent hair, feather parts, flies, maggots, and other such insect filth, and all passed together through the filters, was then pasteurized through the same pasteurizer, held in the same storage vats, and churned together in the same churn.

5.

"The plant itself is sanitary and the equipment is standard and satisfactory.

6.

"Some of the butter manufactured from said cream, in spite of filtration through standard filters, contained insect fragments and, in minute quantities, substances which came from broken or partially dissolved insects, and materials

which had been a part of the decomposed cream, and mold in such quantities that in ten instances out of fourteen, where the butter was microscopically examined for mold, 100% of the microscopic fields examined by the Wildman Method were found to contain mold.

7.

'There is a general correlation between the microscopic mold parts found in butter and the quality of the cream from which the butter is produced. The presence of microscopic mold in butter in excessive quantities may be accepted as an indication that the cream from which the butter was made either contained filth or was to an extent decomposed. Mold in butter, therefore, is relevant evidence to be considered along with all the other evidence as to the condition of the cream, but it is not necessary in this case to find just what weight should be given to such evidence.

8.

"Such butter so produced by Swift & Company at its Macon Plant was filthy and unfit for food.

9.

"Swift & Company, for a number of years, has engaged in a nation-wide program of cream quality improvement and has advocated quality improvement in its dairy products.

10.

"H. N. Bates, the Macon Manager of Swift & Company during most of 1942, failed to carry out fully the instructions of the management of Swift & Company with regard to the cream quality improvement program in the State of Georgia and the making of mold tests upon the cream from which butter was made at the Macon plant.

11.

"In October, 1942, partially as a result of requests on the part of Swift & Company, the newly organized Dairy Department of Georgia Agricultural College began to interest itself in a cream quality program within the State of Georgia, and in the latter part of that year, also partially through the efforts of Swift & Company, the Georgia Butter Manufacturers' Association was organized and began to participate in a general program of cream quality improvement within the State.

12.

"After the inception of such program, experts and other representatives of Swift & Company's Cream Improvement Department did active field work in furtherance of cream quality improvement in Georgia.

13.

"As a result of all of these efforts, the quality of cream being received at the Macon plant of Swift & Company in the latter part of 1943 and the butter produced during that period showed a marked improvement over that produced at the times referred to in the complaint. The butter now scores 89 and 89½.

14.

"W. W. Joyner, the present Manager of the Macon plant of Swift & Company, has actively participated in this field work and in the Georgia cream quality improvement program.

15.

"With a continuation of the work being done by the University of Georgia and the members of the Butter Industry of Georgia, continued improvement in cream quality should result and a higher quality of commercial butter be produced in the State of Georgia, especially if they had the cooperation of

the State Agricultural Department. However, it does not appear from the evidence that the State Agricultural Department is taking any active part in the Georgia cream quality program.

16.

"Cream used at Swift's Macon plant is produced in the main by small producers scattered over a wide area. It is held generally for about a week before it is delivered to the plant. The conditions under which it is produced and held are such that almost inevitably a large part of it will contain insects and become to some extent decomposed. Without the full cooperation of the State Agricultural Department, it is not likely that sufficient pure, clean cream can be had from which to make butter in commercial quantities lawful to be shipped in interstate commerce. If all the cream in the state went to interstate shippers of butter, they could require the production of clean cream simply by rejecting all bad cream. But as long as bad cream subject to be rejected by interstate manufacturers can be sold to intrastate manufacturers, the cream situation will probably remain bad. At such time as state law, strictly enforced, may require a high standard for cream, no bad cream can be sold in the state and then conditions of production and manufacture will change. Until that time arrives Swift & Company cannot force the production of clean cream by any amount of good faith or effort and, while the cream quality program, if continued, will no doubt improve cream conditions, it will not likely cure them. These findings are made only as touching the necessity for an injunction and as a basis for the exercise of a discretion in granting or denying an injunction.

CONCLUSIONS OF LAW

1.

"This Court has jurisdiction of the parties and of the subject matter of this case.

2.

"Congress intended that the word 'Filthy', as used in the Act, should be construed to have its usual and ordinary meaning, and should not be confined to any scientific or medical definition.

3.

"It is not necessary, in this case, to adjudicate the legal effect of mold alone in butter.

4.

"In spite of the improvement which has been shown in the quality of cream produced in Georgia and of the butter now being manufactured at the Macon plant of Swift & Company, it does not appear from the evidence that, under the present conditions existing in the Georgia Cream Industry, other and further adulterations can adequately be prevented by the defendant, Swift & Company. Particularly may that be true so long as the State Agricultural Department takes no part in the program.

5.

"The butter referred to in the findings of fact was adulterated within the meaning of Title 21, Sec. 342 (a) (3), in that it consisted in part of a filthy and decomposed substance, and was unfit for food.

6.

"Plaintiff is entitled to an injunction as prayed."

On December 31, 1943, judgment was entered ordering that "the defendants, H. N. Bates and Swift and Company, a corporation, all of its officers, representatives, agents, employees and servants, and all persons acting or claiming to act on behalf of or under the defendants, be and they are perpetually

enjoined and restrained under the provisions of Sec. 332, U. S. Code, Title 21, from shipping in interstate commerce, in violation of Sec. 331 and Sec. 342 (a) (3), U. S. Code, Title 21, adulterated butter manufactured or to be manufactured in its Macon, Georgia, plant."

8002. Adulteration and misbranding of butter. U. S. v. Harold A. Hamilton (Eldorado Creamery Co.). Plea of guilty. Fine, \$600. (F. D. C. No. 12549. Sample Nos. 49323-F, 49324-F, 49329-F.)

INFORMATION FILED: August 21, 1944, Southern District of Ohio, against Harold A. Hamilton, trading as the Eldorado Creamery Co., Eldorado, Ohio.

ALLEGED SHIPMENT: On or about February 5 and 9, 1944, from the State of Ohio into the State of Indiana.

LABEL, IN PART: (Wrappers, portions) "½ Lb. Net Wayne County Farm Bureau Produce Ass'n Distributors Richmond, Indiana Creamery Butter," or "Eldorado Creamery Butter Made By Eldorado Creamery Co. Eldorado, O."

VIOLATIONS CHARGED: Adulteration (all lots), Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

Misbranding (portion), Section 403 (a), the statement on the wrappers, "½ Lb. Net," was false and misleading as applied to the article, which was short-weight; and, Section 403 (e) (2), the article was in package form and its label failed to bear an accurate statement of the quantity of the contents.

DISPOSITION: November 30, 1944. A plea of guilty having been entered, the defendant was fined \$150 on each of 4 counts, a total fine of \$600.

8003. Adulteration and misbranding of butter. U. S. v. Martin M. Nielsen (Clinton Pure Butter Co.). Plea of guilty. Fine, \$100 and costs. (F. D. C. No. 12612. Sample No. 46921-F.)

INFORMATION FILED: January 6, 1945, Southern District of Iowa, against Martin M. Nielsen, trading as the Clinton Pure Butter Co., Clinton, Iowa.

ALLEGED SHIPMENT: On or about March 1, 1944, from the State of Iowa into the State of Illinois.

LABEL, IN PART: (Cartons) "Nielsen's Quality One Pound Butter."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents in that the label statement "One Pound" was inaccurate since the cartons contained less than 1 pound of butter.

DISPOSITION: April 3, 1945. A plea of guilty having been entered, the defendant was fined \$50 on each of 2 counts, a total of \$100 and costs.

8004. Adulteration and misbranding of butter. U. S. v. Beaty Grocery Co. Plea of nolo contendere. Fine, \$45. (F. D. C. No. 12584. Sample Nos. 66720-F, 66815-F.)

INFORMATION FILED: October 25, 1944, Western District of Missouri, against the Beaty Grocery Co., a corporation, St. Joseph, Mo.

ALLEGED SHIPMENT: On or about February 22 and April 10, 1944, from the State of Missouri into the State of Kansas.

LABEL, IN PART: (Cartons) "One Pound Net Hy-Klas Brand Butter."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent of the article, milk fat, had been in part omitted therefrom; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

Misbranding (portion), Section 403 (e) (2), the article was in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents, since the cartons bore the statement "One Pound Net," whereas they contained less than 1 pound of butter.

DISPOSITION: November 10, 1944. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$15 on each of 3 counts, a total of \$45, was imposed.

8005. Adulteration of butter. U. S. v. Farmers Cooperative Creamery Co. Plea of guilty. Fine, \$250 and costs. (F. D. C. No. 12543. Sample No. 76016-F.)

INFORMATION FILED: December 5, 1944, Northern District of Iowa, against the Farmers Cooperative Creamery Co., a corporation, Greeley, Iowa.

ALLEGED SHIPMENT: On or about February 3, 1944, from the State of Iowa into the State of New York.

LABEL, IN PART: "Butter William Menzer Inc. Distributor New York."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: December 5, 1944. A plea of guilty having been entered on behalf of the defendant, a fine of \$250 and costs was imposed.

8006. Adulteration of butter. U. S. v. John E. Landsberger (Landsberger Creamery & Produce Co.). Plea of guilty. Fine, \$100. (F. D. C. No. 14257. Sample Nos. 81786-F, 82314-F.)

INFORMATION FILED: February 12, 1945, District of South Dakota, against John E. Landsberger, trading as the Landsberger Creamery and Produce Co., Sisseton, S. Dak.

ALLEGED SHIPMENT: On or about May 23 and July 1, 1944, from the State of South Dakota into the State of New York.

LABEL, IN PART: (Portion) "Salted Butter Distributed by L. Daitch & Co. Inc. New York, N. Y."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: April 17, 1945. The defendant having entered a plea of guilty, a fine of \$50 on each of 2 counts, a total of \$100, was imposed.

8007. Adulteration of butter. U. S. v. Beatrice Creamery Co. Plea of guilty. Fine, \$50 and costs. (F. D. C. No. 14216. Sample Nos. 47726-F, 62543-F.)

INFORMATION FILED: December 5, 1944, Western District of Oklahoma, against the Beatrice Creamery Co., a corporation, Oklahoma City, Okla.

ALLEGED SHIPMENT: On or about June 23, 1943, from the State of Oklahoma into the State of Missouri.

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: December 21, 1944. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$50 and costs.

8008. Adulteration of butter. U. S. v. Mike Hallren (Hallren Poultry & Creamery Co.). Plea of guilty. Fine, \$50 and costs. (F. D. C. No. 10612. Sample Nos. 14496-F, 15154-F, 15155-F, 15175-F.)

INFORMATION FILED: December 6, 1943, Eastern District of Oklahoma, against Mike Hallren, trading as the Hallren Poultry and Creamery Co., Fairview, Okla.

ALLEGED SHIPMENT: Between the approximate dates of May 6 and June 19, 1943, from the State of Oklahoma into the State of California.

LABEL, IN PART: (Boxes) "Butter * * * Distributed by Disney Smith L. A. Calif."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: February 1, 1945. A plea of guilty having been entered, the defendant was fined \$25 on each of 2 counts.

8009. Adulteration of butter. U. S. v. Edgerton Cooperative Creamery. Plea of guilty. Fine, \$25. (F. D. C. No. 11429. Sample No. 8627-F.)

INFORMATION FILED: January 16, 1944, District of Minnesota, against the Edgerton Cooperative Creamery, a corporation, Edgerton, Minn.

ALLEGED SHIPMENT: On or about November 20, 1943, from the State of Minnesota into the State of Massachusetts.

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: January 16, 1945. A plea of guilty having been entered on behalf of the defendant, a fine of \$25 was imposed.

CHEESE AND MILK

8010. Misbranding of blue cheese. U. S. v. Charles Chesman (Chesso Cheese Co.).
Plea of guilty. Fine, \$200. (F. D. C. No. 12614. Sample Nos. 51997-F, 51998-F.)

INFORMATION FILED: December 20, 1944, Southern District of New York, against Charles Chesman, trading as Charles Chesman; also trading as the Chesso Cheese Co., New York, N. Y.

ALLEGED SHIPMENT: On or about March 8, 1944, from the State of New York into the State of Massachusetts.

LABEL, IN PART: "Chesso Brand Genuine Blue Cheese * * * Net Wt. $1\frac{1}{4}$ [or " $\frac{3}{4}$ "] Oz."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the label failed to bear an accurate statement of the quantity of the contents, the statements " $1\frac{1}{4}$ [or " $\frac{3}{4}$ "] Oz." being inaccurate since the packages contained less than $1\frac{1}{4}$ ounces (or $\frac{3}{4}$ ounce) of the product.

DISPOSITION: March 7, 1945. A plea of guilty having been entered, a fine of \$100 on each count was imposed.

8011. Adulteration and misbranding of Cheddar cheese. U. S. v. 53 Daisies of Cheddar Cheese. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 13966. Sample No. 61933-F.)

LIBEL FILED: October 18, 1944, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about June 1, 1944, by the Tuell Dairy Co., from Columbia, Tenn.

PRODUCT: 53 daisies of Cheddar cheese at New Orleans, La.

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), an article deficient in milk fat had been substituted in whole or in part for cheddar cheese.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for Cheddar cheese, since it contained in its solids less than 50 percent of milk fat.

DISPOSITION: December 11, 1944. The Tuell Dairy Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be used in the manufacture of legal processed cheese, under the supervision of the Food and Drug Administration.

8012. Adulteration of grated cheese. U. S. v. 25 Dozen Cartons of Grated Parmesan Cheese and 17 Dozen Cartons of Grated Italian Cheese (and 1 other seizure action against grated Italian cheese). Default decrees of condemnation and destruction. (F. D. C. Nos. 12343, 13940. Sample Nos. 60534-F to 60536-F, incl., 60576-F, 60578-F.)

LIBELS FILED: May 10 and October 11, 1944, Northern District of California.

ALLEGED SHIPMENT: On or about January 22 and March 2, 1944, by the Ehrat Cheese Co., from Chicago, Ill.

PRODUCT: 42 dozen cartons of cheese at Watsonville, Calif., and $9\frac{7}{12}$ cases and 20 cartons of cheese at Oakland, Calif.

LABEL, IN PART: "Circle E * * * Grated Italian Cheese," "Circle E Sharp Tasty Grated Italian Style Cheese," or "Riviera Brand Grated Parmesan Cheese."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent hair fragments, mites, and insect fragments.

DISPOSITION: March 3, 1945. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

8013. Adulteration of Toscano cheese. U. S. v. 400 Loaves of Toscano Cheese.
Consent decree of condemnation. Product ordered released under bond.
(F. D. C. No. 13723. Sample No. 86610-F.)

LIBEL FILED: September 28, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: On or about July 5, 1944, by the Bravo Cheese Factory, from Pullman, Mich.

PRODUCT: 400 18-pound loaves of Toscano cheese at Chicago, Ill.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, mites, and insect fragments; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 22, 1945. The Ehrat Cheese Co., Inc., Chicago, Ill., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

8014. Misbranding of dry milk solids. U. S. v. 185 Barrels of Dry Milk Solids.
Consent decree of condemnation. Product ordered released under bond.
(F. D. C. No. 13794. Sample No. 76074-F.)

LIBEL FILED: September 16, 1944, Northern District of New York.

ALLEGED SHIPMENT: On or about July 6, 1944, by the Blue Moon Foods, Inc., from Thorp, Wis.

PRODUCT: 185 barrels, each containing 200 pounds, of dry milk solids, at West Albany, N. Y.

VIOLATIONS CHARGED: Misbranding, Sections 403 (g) (1) and (2), the product purported to be nonfat dry milk solids or defatted milk solids, a food for which a definition and standard of identity has been prescribed by law, and it failed to conform to such definition and standard since it was not made from sweet milk of cows but was made from neutralized sour skim milk; and since its label failed to bear the name of the food specified in the definition and standard, i. e., nonfat dry milk solids or defatted milk solids.

DISPOSITION: April 23, 1945. The Blue Moon Foods, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond on condition that it be denatured under the supervision of the Food and Drug Administration.

8015. Adulteration of dried skim milk. U. S. v. 8 Barrels of Dried Skim Milk.
Default decree of condemnation. Product ordered sold to be denatured for use other than human consumption. (F. D. C. No. 13290. Sample No. 72595-F.)

LIBEL FILED: August 22, 1944, Western District of Tennessee.

ALLEGED SHIPMENT: On or about June 25, 1944, by the Center Milk Products Co., from Maryville, Mo.

PRODUCT: 8 200-pound barrels of dried skim milk at Memphis, Tenn.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, larvae, and insect fragments.

DISPOSITION: April 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold to be denatured for use other than human consumption, under the supervision of the Federal Security Agency.

8016. Misbranding of dried skim milk. U. S. v. 50 Barrels of Dried Skim Milk.
Default decree of condemnation. Product ordered sold for use as animal feed. (F. D. C. No. 13699. Sample No. 68083-F.)

PRODUCT: 50 200-pound barrels of dried skim milk at Cincinnati, Ohio.

ALLEGED SHIPMENT: On or about July 17, 1944, by the Red Top Milk Co., from Mabel, Minn.

PRODUCT: 50 200-pound barrels of dried skim milk at Cincinnati, Ohio.

LABEL, IN PART: "Dry Skim Milk Roller Process."

VIOLATION CHARGED: Misbranding, Section 403 (g) (1), the product purported to be nonfat dry milk solids or defatted milk solids, a food for which a defi-

inition and standard of identity has been prescribed by law, and it failed to conform to such definition and standard since it was not made from sweet milk of cows but was made from neutralized sour skim milk.

DISPOSITION: June 20, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold for use as animal feed.

8017. Supplement to notices of judgment on foods, No. 6092. U. S. v. 39 Cases of Evaporated Milk. (F. D. C. No. 12628. Sample No. 75227-F.)

On June 6, 1944, a libel was filed in the Western District of New York against 39 cases of evaporated milk, alleging that it had been shipped by the Borden Co., from Perrington, Mich., and that it was adulterated in that it consisted in whole or in part of a decomposed substance. The product at that time was in possession of the Erie Railroad Warehouse, Niagara Falls, N. Y. The goods were seized under the libel and the seizure action was terminated upon the entry of a decree of condemnation and destruction, no claim or answer having been filed.

Further investigation of the shipment has been made by this Agency in view of representations by the shipper that the product was in good condition at the time of shipment. The records of the railroad show that no inspection of the product had been made at the point of origin of the shipment, but that inspection at destination showed that the cases had shifted during shipment and that some cans had been punctured, causing the milk to leak through on a number of cases. The records also show that the railroad claims agent concluded that the damage was caused by rough handling in transit.

FEEDS AND GRAINS

8018. Adulteration of meat bone scrap. U. S. v. 250 Bags of Meat Bone Scrap. Default decree of condemnation and destruction. (F. D. C. No. 11489. Sample No. 50728-F.)

LIBEL FILED: December 28, 1943, District of New Jersey.

ALLEGED SHIPMENT: On or about November 22, 1943, by the H. M. Rubin Co., from Brooklyn, N. Y.

PRODUCT: 250 100-pound bags of meat bone scrap at Vineland, N. J.

LABEL, IN PART: "Rubco Meat Bone Scrap."

VIOLATION CHARGED: Adulteration, Section 402 (a) (1), the product contained an added deleterious substance, glass, which may have rendered it injurious to health.

DISPOSITION: March 3, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8019. Adulteration and misbranding of Mor-Milk for Pigs and Hogs, and Mor-Milk for Calves. U. S. v. Utley Noble (Mor-Milk Co.). Plea of guilty. Fine, \$450 and costs. (F. D. C. No. 11335. Sample Nos. 32090-F, 32091-F, 37967-F.)

INFORMATION FILED: April 17, 1944, Northern District of Illinois, against Utley Noble, trading as the Mor-Milk Co., Dixon, Ill.

ALLEGED SHIPMENT: On or about April 17 and 30, 1943, from the State of Illinois into the States of Indiana and Michigan.

VIOLATIONS CHARGED: Mor-Milk for Pigs and Hogs, adulteration, Section 402 (b) (1), valuable constituents had been in whole or in part omitted or abstracted from the product in that it was represented to contain 17 percent of protein and 3.50 percent of fat, but contained not more than 14.96 percent of protein and 2.09 percent of fat. Misbranding, Section 403 (a), the statements on the label, "Analysis Protein 17.00 percent Fat 3.50," were false and misleading.

Mor-Milk for Calves, adulteration, Section 402 (b) (1), valuable constituents of the product had been in whole or in part omitted or abstracted therefrom in that the product was represented to contain 20 percent of protein and 3.50 percent of fat, but a portion contained no more than 14.88 percent of protein and 2.72 percent of fat, and the remainder contained no more than 17.23 percent of protein. Misbranding, Section 403 (a), the statements, "Analysis Protein 20.00 percent Fat 3.50," were false and misleading.

The articles, together with another product, Mor-Milk for Poultry, were also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1341.

DISPOSITION: On October 16, 1944, a plea of guilty having been entered, the defendant was fined \$50 on each count, a total fine of \$450 and costs.

8020. Adulteration and misbranding of rice bran. U. S. v. Anthony B. O'Donnell (Pelican Rice Mill). Plea of guilty. Fine, \$6,000. (F. D. C. No. 12608. Sample Nos. 35475-F to 35477-F, incl.)

INFORMATION FILED: November 9, 1944, Western District of Louisiana, against Anthony B. O'Donnell, trading as the Pelican Rice Mill, Mermentau, La.

ALLEGED SHIPMENT: Between the approximate dates of October 21 and 27, 1943, from the State of Louisiana into the State of Georgia.

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), rice hulls and ground oyster shell had been substituted in whole or in part for "Rice Bran," which the product was represented to be.

Misbranding, Section 403 (a), the statements on the tags attached to sacks of the article, "Rice Bran" and "Guaranteed Analysis: Minimum per cent Crude Protein 12.00% Minimum per cent Crude Fat 12.00% Minimum per cent Nitrogen Free Extract 42.00% Maximum per cent Crude Fibre 12.00%," were false and misleading since the product did not consist solely of rice bran but consisted in large part of rice hulls and ground oyster shell, and since the article contained from 5.67 percent to 6.38 percent of crude protein, 3.72 percent to 5.50 percent of crude fat, 30.67 percent to 36.69 percent nitrogen free extract, and 24.33 percent to 30.16 percent crude fiber.

DISPOSITION: November 9, 1944. A plea of guilty having been entered, the defendant was fined \$1,000 on each of 6 counts, a total fine of \$6,000.

8021. Misbranding of alfalfa meal. U. S. v. Bremco Mills. Plea of guilty. Fine, \$100 and costs. (F. D. C. No. 12580. Sample No. 33137-F.)

INFORMATION FILED: October 24, 1944, Northern District of Ohio, against the Bremco Mills, a partnership, New Bremen, Ohio.

ALLEGED SHIPMENT: On or about February 24, 1944, from the State of Ohio into the State of Maryland.

LABEL, IN PART: "Platte Valley Alfalfa Meal."

VIOLATION CHARGED: Misbranding, Section 403 (a), the statements in the labeling, "Protein not less than . . . 17.0% * * * Fiber not more than . . . 24.0%," were false and misleading since the product contained protein in amounts varying from 15.27 percent to 15.36 percent and fiber in amounts varying from 30.39 percent to 30.81 percent.

DISPOSITION: November 22, 1944. A plea of guilty having been entered, the defendant was fined \$100 and costs.

8022. Misbranding of alfalfa meal. U. S. v. Western Milling Co. (Tremaine Alfalfa Milling Co.). Plea of guilty. Fine, \$750. (F. D. C. No. 14252. Sample No. 27925-F.)

INFORMATION FILED: January 24, 1945, District of Arizona, against the Western Milling Co., trading as the Tremaine Alfalfa Milling Co., Mesa, Ariz.

ALLEGED SHIPMENT: On or about January 13, 1944, from the State of Arizona into the State of Wisconsin.

LABEL, IN PART: "Westsun Brand Alfalfa Meal."

VIOLATION CHARGED: Misbranding, Section 403 (a), the statements, "Crude Protein, not less than 17.0 per cent * * * Crude Fibre, not more than 27.0 per cent," borne on tags attached to the sacks containing the article, were false and misleading since the article contained crude protein in amounts ranging from 12.80 percent to 13.21 percent and crude fiber in amounts ranging from 30.36 percent to 30.63 percent.

DISPOSITION: February 12, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$750.

8023. Misbranding of dog food. U. S. v. 224 Bags, 72 Bags, and 164 Bags of Dog Food. Default decree of condemnation and destruction. (F. D. C. No. 11845. Sample Nos. 49863-F, 49864-F.)

LIBEL FILED: February 18, 1944, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 28, 1943, by the Park & Pollard Co., Inc., from Buffalo, N. Y.

PRODUCT: 224 5-pound bags and 72 2-pound bags of dog food (meal), and 164 2-pound bags of dog food (pellets), at Erie, Pa. The only meat constituent of the article was meat and bone scraps which were present to the

extent of less than 10 percent. The article contained 12 percent less than the 26 percent of protein declared.

LABEL, IN PART: "Meat Laden Munchy Dog Food (Meal)," or "Munchy Pellets * * * Munchy Dog Food." The ingredients were declared on the label as "Meat Scraps, Flaked Corn and Wheat Cereal, Dried Yeast, Dried Skim Milk, Soybean Meal Flakes, Ground Malt, Fish Meal, Kelp, Wheat Germ Oil, Calcium Carbonate, Bone Meal, Manganese Sulphate, Fortified Cod Liver Oil. Guaranteed Analysis Protein (at least) 26%."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the statements on the label, "Guaranteed Analysis Protein (at least) 26%," (5-pound bag) "Meat-Laden * * * Makes 15 Lbs. of Meat-Laden * * * Dog Food," or (2-pound bag) "Makes 6 Lbs. of Meat-Laden * * * Dog Food," were false and misleading since the article contained less than 26 percent of protein and less than 10 percent of meat meal; and the statements on the label of the article, "Aids in Maintaining Good Health Growth A Full, Rich Coat Good Bone Formation Sound Teeth Sweet Breath Healthy Skin Resistance to Colds and Distemper * * * Safeguards Against Rickets, Black Tongue & Other Diseases Due to Nutritional Deficiencies," were false and misleading since the articles would not accomplish the results suggested and implied; and, Section 403 (f), the list of ingredients of the article, required by law to appear on the label, were not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, and devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use, since the list of ingredients appeared on the back panel of the label.

The article was also alleged to be misbranded under the provisions of law applicable to drugs, as reported in the notices of judgment on drugs and devices, No. 1298.

DISPOSITION: April 12, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8024. Misbranding of dog food. U. S. v. 165 Cases of Dog Food. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 11160. Sample No. 50110-F.)

LIBEL FILED: November 24, 1943, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 23, 1943, from Buffalo, N. Y., by the Maritime Milling Co.

PRODUCT: 165 cases, each containing 10 5-pound bags, of dog food at Pittsburgh, Pa. Examination disclosed that the article consisted essentially of cereals and other material, including ground wheat, ground corn, ground oats, ground soya beans, and ground alfalfa; and that it contained small amounts of ground bone, charcoal, and meat tissues.

LABEL, IN PART: "Hunt Club Dog Food."

VIOLATIONS CHARGED: Misbranding, Section 403 (a) (1), the following statements on the label of the article, "Triple Value Makes 7½ Pounds Meat Abundant Food * * * Hunt Club Dog Food Plenty of Meat (In Meal Form) Vitamin-Rich A Meal Food Fortified with Vitamins A, B₁, Riboflavin, Niacin, D, E, F, and K," were false and misleading since such statements created the impression that the article was meat in meal form, fortified with vitamins, whereas the article consisted essentially of cereals and other vegetable products with only small quantities of meat and meat by-products; (2) the label statements, "Contains everything needed for Vibrant Health, Robust Vigor and a Luxurious Coat * * * Owners Report These Results from Hunt Club feeding Vibrant Health Strong Bone Formation Sound Teeth Pleasant Breath A Thick, Glossy Coat Absence of Eczema and Other Skin Disorders. Freedom from * * * other Nutritional Deficiency Diseases. Added resistance to Colds and Distemper," were false and misleading since use of the article would not accomplish the results and benefits suggested or implied; and (3) the label statements which represented and suggested and created the impression that the article consisted of 65 percent of protein meat meal with relatively small quantities of "Beef Liver Meal, Dried Skimmed Milk, Dried Cheese Whey, Dehydrated Cheese, Soybean Oil Meal, Processed Cereals from Corn, Wheat and Oats, Corn Germ Oil Meal, Alfalfa Leaf Meal, Wheat Bran, Dried Beet Pulp" were misleading since the article consisted essentially of cereals and other vegetable material, and contained only small quantities of meat and meat by-products.

Further misbranding, Section 403 (f), the common or usual name of each ingredient contained in the article was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices on the label) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use, since the name of each ingredient contained in the article was in small type and appeared inconspicuously on the side panel.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in the notices of judgment on drugs and devices, No. 1350.

DISPOSITION: March 10, 1944. The Maritime Milling Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

FISH AND SHELLFISH

8025. Adulteration of canned mackerel. U. S. v. B. A. Griffin Co., Inc., and Bennett A. Griffin. Plea of guilty on behalf of the corporation and plea of nolo contendere by the individual. Fines, \$400 and \$100 against corporation and individual, respectively. (F. D. C. No. 12514. Sample Nos. 47201-F to 47203-F, incl.)

INFORMATION FILED: June 21, 1944, District of Massachusetts, against the B. A. Griffin Co., Inc., and Bennett A. Griffin, president of the corporation, Barnstable, Mass.

ALLEGED SHIPMENT: On or about June 18, 1943, from the State of Massachusetts into the State of Tennessee.

LABEL, IN PART: "Griffin's Atlantic Ocean Mackerel * * * Packed for B. A. Griffin Co., Inc., Milwaukee, Wis."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid and decomposed substance, i. e., stale, putrid, and decomposed mackerel.

DISPOSITION: April 24, 1945. A plea of guilty having been entered on behalf of the corporation, and the individual defendant having entered a plea of nolo contendere, fines of \$400 and \$100, respectively, were imposed.

8026. Adulteration of salted mackerel. U. S. v. Covington Brothers & Co. (Covington Brothers & Co. of Mayfield, Inc.). Plea of guilty. Fine, \$500 and costs. (F. D. C. No. 12569. Sample No. 62923-F.)

INFORMATION FILED: September 23, 1944, Western District of Kentucky, against Covington Brothers & Co., a corporation, trading as Covington Brothers & Co. of Mayfield, Inc., at Mayfield, Ky.

ALLEGED SHIPMENT: On or about February 16, 1944, from the State of Kentucky into the State of Missouri.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed and putrid substance.

DISPOSITION: November 21, 1944. A plea of guilty having been entered on behalf of the defendant, a fine of \$500 and costs was imposed.

8027. Adulteration and misbranding of canned salmon. U. S. v. 171 Cases of Canned Salmon. Default decree of condemnation and destruction. (F. D. C. No. 13902. Sample Nos. 78926-F, 78927-F.)

LIBEL FILED: October 16, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: On or about July 20, 1944, by the Keystone Storage Co., from East Liverpool, Ohio.

PRODUCT: 171 cases of canned salmon, at Chicago, Ill.

LABEL, IN PART: (Portion) "Canteen Cohoe Alaska Salmon * * * Distributed By Western Fisheries Company, Seattle, Wash."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (e), a portion of the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; and, Section 403 (i) (2), it was fabricated from two or more ingredients, salmon and salt, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: December 12, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8028. Adulteration of crab meat. U. S. v. Howard W. Shaw (Southern Crab Co.).
Plea of nolo contendere. Fine, \$100. (F. D. C. No. 14261. Sample Nos. 28873-F, 28875-F.)

INFORMATION FILED: February 26, 1945, Southern District of Florida, against Howard W. Shaw, trading as the Southern Crab Co., Fernandina, Fla.

ALLEGED SHIPMENT: On or about June 3 and 6, 1944, from the State of Florida into the State of New York.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance as evidenced by the presence of fecal *Escherichia coli*; and, Section 402 (a) (4), it has been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 4, 1945. The defendant having entered a plea of nolo contendere, a fine of \$50 on each of 2 counts was imposed.

8029. Adulteration of canned oysters. U. S. v. 673 Cases of Canned Oysters.
Tried to the court. Judgment ordering portion of product returned to the claimant; remainder condemned and released under bond. (F. D. C. No. 10068. Sample No. 42276-F.)

LIBEL FILED: June 8, 1943, Middle District of Tennessee.

ALLEGED SHIPMENT: On or about May 13, 1943, by the Mavar Shrimp and Oyster Co., from Biloxi, Miss.

PRODUCT: 673 cases, each containing 48 10-ounce cans, of oysters, at Nashville, Tenn.

LABEL, IN PART: "Oysters * * * New Style Pack More Oysters Per Can, Gibbs And Co., Inc. Distributors, Baltimore, Md. * * * Bull Head Brand."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: On July 30, 1943, the Mavar Shrimp & Oyster Co., Ltd., claimant, filed an answer denying that the product was adulterated. Thereafter, the claimant having submitted a list of five interrogatories requesting information in regard to the details of the examination of samples, and the government having filed objections, the matter came on for hearing, following which an order was entered on January 19, 1944, directing that the interrogatories be answered. Subsequently, a motion filed by the claimant for the release of a portion of the product under seizure, on the ground that it was fit for consumption, was overruled.

On May 28, 1945, the cause was submitted to the court upon the pleadings, evidence, exhibits, and argument of counsel for the Government and claimant, and, after due consideration thereof, the court, on May 30, 1945, entered its findings of fact and conclusions of law as follows:

DAVIES, *District Judge:*

FINDINGS OF FACT

"1. A Libel in Rem was filed herein by the United States of America on June 8, 1943, against 673 cases, more or less, each containing 48 cans of an article labeled in part (can) "OYSTERS, CONTENTS, 10 OZ. AVOIR. NEW STYLE PACK MORE OYSTERS PER CAN, GIBBS AND CO., INC., DISTRIBUTORS, BALTIMORE, MD., 7½ OZS. DRAINED WEIGHT, BULL HEAD BRAND," in the possession of H. G. Hill Company of Nashville, Davidson County, Tennessee; that said cases of oysters were processed, packed and owned by the co-partnership Mavar Shrimp and Oyster Company, Ltd., claimant, and that said oysters were shipped and transported on or about May 13, 1943 from the city of Biloxi, Mississippi, via Louisville and Nashville Railroad, to H. G. Hill Company in Nashville, Tennessee, and that said oysters were intended to be sold or offered for sale in the Middle District of Tennessee.

"2. That said shipment was composed of 673 cases, more or less, of oysters, consisting of 26 Codes designated by the following numbers: 2BCB 2BGB 2BGC 2BGD 2BGE 2BGF 2BGG 2BGH 2BGI 2BGJ 2BHB 2BHC 2BHD 2BHE 2BHF 2BHG 2BHH 2BHJ 2BIA 2BIB 2BIC 2BID 2BIH 2BII 2BIJ 2EE.

"3. That the plaintiff took a preseizure sample from said cases of oysters identified as sample 42276-F, and pursuant to an order entered in this cause

on the 16th day of June, 1943, as authorized by Section 334 (c) of Title 21 United States Code, plaintiff took a representative sample from said cases of oysters identified as sample 32160-F. In taking both of these samples the Government representatives took a number of cans from each Code, recognizing the fact that each Code represented a separate lot or pack. These samples were examined and tested by the smell or organoleptic test in Government laboratories by Government representatives and these examinations of said samples revealed; (a) That all the cans in both samples were normal in exterior appearance. (b) That adulteration did not extend to the entire shipment in that decomposed oysters were found only in the samples of the following codes:

Code No. 2BCB consisting of 10 cases.
 Code No. 2BGH consisting of 45 cases.
 Code No. 2BGJ consisting of 4 cases.
 Code No. 2BHF consisting of 80 cases.
 Code No. 2BIH consisting of 2 cases.
 Code No. 2EE consisting of 18 cases.

159 cases.

(c) That no decomposed oysters were found in the samples taken from the remaining Codes and adulteration did not extend to them.

CONCLUSIONS OF LAW

"1. That the shipment of cases of canned oysters had moved in interstate commerce.

"2. That representatives of plaintiff took a representative sample from each Code and that each Code represented a separate lot or pack of oysters.

"3. That adulteration extended to only the cases of oysters in the following Codes:

Code No. 2BCB consisting of 10 cases.
 Code No. 2BGH consisting of 45 cases.
 Code No. 2BCJ consisting of 4 cases.
 Code No. 2BHF consisting of 80 cases.
 Code No. 2BIH consisting of 2 cases.
 Code No. 2EE consisting of 18 cases.

159 cases.

"4. That the remainder of the shipment of oysters composed of the other Codes are not adulterated within the meaning of the provisions of Subsection (a) (3) of Section 342, Title 21 United States Code, and therefore adulteration does not extend to the entire shipment.

"5. That the cans of oysters contained in the Codes in which adulterated oysters were found, as set out in 3 above, are condemned.

"6. That the oysters contained in the other Codes involved herein are not subject to condemnation."

On May 30, 1945, judgment was entered ordering that the portion found to be unadulterated be returned to the claimant and that the remainder be condemned and released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

8030. Adulteration of canned oysters. U. S. v. 985 Cases of Canned Oysters. Portion ordered released; remainder condemned and ordered released under bond. (F. D. C. No. 10280. Sample No. 36239-F.)

LIBEL FILED: July 22, 1943, District of Colorado.

ALLEGED SHIPMENT: On or about May 19, 1943, by the Anticich Canning Co., from Biloxi, Miss.

PRODUCT: 985 cases, each containing 48 7½-ounce cans, of oysters at Denver, Colo.

LABEL, IN PART: "American Beauty Brand Oysters."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: The Anticich Canning Co., claimant, filed an answer on August 26, 1943, denying that the product was adulterated, and subsequently filed a petition for a release of a portion of the product which had been examined and

found to be free from adulteration, which petition was allowed. The claimant then filed an amended answer, admitting that the remainder of the product was adulterated, and on December 20, 1944, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The unfit portion of the condemned goods was segregated and destroyed, and the remainder was recanned and labeled as reprocessed.

8031. Adulteration of frozen shrimp. U. S. v. 310 Cases and 290 Cases of Frozen Shrimp. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 13976. Sample Nos. 61834-F, 61835-F.)

LIBEL FILED: October 18, 1944, Northern District of California.

ALLEGED SHIPMENT: On or about October 3, 1944, by Otto L. Kuehn, per the United States Cold Storage Co., from Dallas, Tex.

PRODUCT: 600 cases, each containing 10 5-pound cartons, of frozen shrimp at San Francisco, Calif.

LABEL, IN PART: "Penguin Brand Coast Frozen Fresh Shrimp," or "Shrimp * * * Packed by United States Cold Storage Dallas, Texas."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: November 10, 1944. The Otto L. Kuehn Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

8032. Adulteration of frozen shrimp. U. S. v. 197 Cartons, 417 Cartons, and 37 Cartons of Frozen Shrimp. Default decrees of condemnation and destruction. (F. D. C. Nos. 14004, 14005, 14006. Sample Nos. 52970-F, 52971-F, 52973-F.)

LIBELS FILED: October 5, 1944, District of Maryland.

ALLEGED SHIPMENT: On or about August 2, 14, and 22, 1944, by the Matanzas Packing Co., from Jacksonville, Fla.

PRODUCT: 614 12-pound cartons and 37 50-pound cartons of frozen shrimp, at Baltimore, Md.

LABEL, IN PART: (37 carton lot) "Peeled Shrimp Quick Frozen and Packed by Public Quick Freezing & Cold Storage Co., Jacksonville, Fla."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: December 6, 1944. No claimants having appeared, judgments of condemnation were entered and the product was ordered destroyed.

FRUITS AND VEGETABLES

FRUITS AND FRUIT PRODUCTS*

8033. Adulteration of apples. U. S. v. 50 Bushels of Apples. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 13864. Sample No. 80325-F.)

LIBEL FILED: September 9, 1944, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about September 8, 1944, by W. A. Lesseg, from Golden Eagle, Ill.

PRODUCT: 50 bushels of apples at St. Louis, Mo.

VIOLATION CHARGED: Adulteration, Section 402 (a) (1), the product contained an excessive amount of lead, which may have rendered it injurious to health.

DISPOSITION: October 13, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution, conditioned that all peelings and cores be destroyed under the supervision of the Food and Drug Administration.

8034. Adulteration of apple chops. U. S. v. 930 Bags of Apple Chops. Default decree of forfeiture and destruction. (F. D. C. No. 13662. Sample No. 90518-F.)

LIBEL FILED: September 14, 1944, Southern District of Indiana.

ALLEGED SHIPMENT: On or about October 14, 1943, by G. Kittelberger, from Summit Point, W. Va.

*See also Nos. 7928, 8089, 8097.

PRODUCT: 930 bags of apple chops at Terre Haute, Ind.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of larvae, insect fragments, insect excreta, and moldy and decomposed apple chops.

DISPOSITION: April 11, 1945. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

8035. Adulteration of dried apple chops. U. S. v. 616 Bags and 121 Bags of Dried Apple Chops. Decrees of condemnation. One lot ordered sold; remaining lot ordered destroyed. (F. D. C. Nos. 10885, 15403. Sample Nos. 1775-F, 22315-H.)

LIBELS FILED: October 7, 1943, and February 17, 1944, Northern District of Illinois and Eastern District of Missouri.

ALLEGED SHIPMENT: On or about August 6, 1943, and October 17, 1944, by the K & K Evaporated Apple Packing Corporation, from Webster, N. Y., and Summit Point, W. Va.

PRODUCT: 616 bags of dried apple chops at Chicago, Ill., and 121 bags at St. Louis, Mo.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product (St. Louis lot) consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta pellets, rodent hairs, and insect fragments, and (Chicago lot) of a filthy and decomposed substance by reason of the presence of moldy and decomposed apple chops, insect larvae, insect fragments, insect excreta, and rodent hairs.

DISPOSITION: September 13, 1944, and March 23, 1945. No claimant having appeared, judgments of condemnation were entered and the St. Louis lot was ordered sold to be disposed of in compliance with the law, and the Chicago lot was ordered destroyed.

8036. Misbranding of canned aprieots. U. S. v. 398 Cases of Canned Aprieots. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 13964. Sample No. 73483-F.)

LIBEL FILED: October 17, 1944, Western District of Washington.

ALLEGED SHIPMENT: On or about September 14, 1944, by the Modern Marketing Service, Inc., from Oakland, Calif.

PRODUCT: 398 cases, each containing 24 1-pound, 14-ounce cans, of apricots at Tacoma, Wash.

LABEL, IN PART: "Amocat Brand Unpeeled Halves Apricots In Extra Heavy Syrup."

VIOLATION CHARGED: Misbranding, Section 403 (g) (2), the article failed to bear, as required by the regulations, a label stating the name of the optional packing medium present in the article, since the label bore the statement "In Extra Heavy Syrup," whereas the article was packed in sirup designated in the regulations as "Heavy Sirup."

DISPOSITION: December 11, 1944. The West Coast Grocery Co., Tacoma, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

8037. Misbranding of canned apricots. U. S. v. 248 Cases of Canned Apricots. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14045. Sample No. 73466-F.)

LIBEL FILED: October 16, 1944, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about September 28, 1944, by the Stokely Bros. and Co., Inc., from Oakland, Calif.

PRODUCT: 248 cases, each containing 24 cans, of apricots, at Norfolk, Va. This product was labeled as being packed "in Heavy Syrup," whereas it was packed in light sirup.

LABEL, IN PART: "Stokely's Finest Halves Unpeeled Apricots in Heavy Syrup."

VIOLATION CHARGED: Misbranding, Section 403 (g) (2), the product purported to be and was represented as canned apricots, a food for which a definition and standard of identity has been prescribed by regulations, and its label

failed to bear, as the regulations require, the name of the optional packing medium.

DISPOSITION: February 28, 1945. The claimant having filed an answer and the court having found from consideration of the answer that a portion of the product was misbranded, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

8038. Misbranding of canned whole apricots. U. S. v. 99 Cases of Canned Whole Apricots. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 13295. Sample No. 73404-F.)

LIBEL FILED: August 29, 1944, Western District of Washington.

ALLEGED SHIPMENT: On or about July 28, 1944, by the A. M. Beebe Co., from Oakland, Calif.

PRODUCT: 99 cases of 24 cans each of whole apricots at Seattle, Wash. Examination showed that the article was packed in sirup designated as "light sirup" in the standard of identity for canned apricots.

LABEL, IN PART: "Flotill Unpeeled Whole Apricots in Heavy Syrup. Packed By Flotill Products, Inc. Stockton, Calif."

VIOLATION CHARGED: Misbranding, Section 403 (a), the label statement "in Heavy Syrup" was false and misleading as applied to the article, which was packed in light sirup.

DISPOSITION: March 2, 1945. Flotill Products, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration

8039. Misbranding of canned apricots. U. S. v. 98 Cases of Canned Apricots. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14150. Sample Nos. 73469-F, 73470-F.)

LIBEL FILED: October 27, 1944, Western District of Wisconsin.

ALLEGED SHIPMENT: On or about September 9, 1944, by the Drew Canning Co., from Oakland, Calif.

PRODUCT: 44 cases, each containing 24 cans, of apricots (halves) and 54 cases, each containing 24 cans, of apricots (whole), at Wausau, Wis.

LABEL, IN PART: "Drew Unpeeled Halves Apricots In Heavy Syrup," and "Drew Whole Unpeeled Apricots In Heavy Syrup."

VIOLATION CHARGED: Misbranding, Section 403 (g) (2), the product purported to be and was represented as canned apricots, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear, as required by the regulations, the name of the optional packing medium present in the product, since it was labeled as being packed "In Heavy Syrup," whereas it was packed in sirup designated as "light sirup" in the standard.

DISPOSITION: December 23, 1944. The Kickbusch Grocery Co., Wausau, Wis., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

8040. Adulteration of frozen cherries. U. S. v. Samuel Alston Moffett (S. A. Moffett Co.). Plea of guilty. Fine, \$600 and costs. (F. D. C. No. 11369. Sample Nos. 11950-F, 11953-F.)

INFORMATION FILED: May 12, 1944, Western District of Washington, against Samuel Alston Moffett, trading as the S. A. Moffett Co., Seattle, Wash.

ALLEGED SHIPMENT: On or about July 28 and 30, 1943, from the State of Washington into the State of California.

LABEL, IN PART: "4+1 R. S. P. Cherries."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), (one lot) the product consisted in whole or in part of a filthy substance by reason of the presence of maggots; and, Section 402 (b) (2), (all lots) partially pitted cherries had been substituted in whole or in part for pitted cherries, which the article was represented to be.

DISPOSITION: December 16, 1944. A plea of guilty having been entered, the defendant was fined \$300 on each count, plus costs.

8041. Adulteration of fig paste. U. S. v. 411 Boxes of Fig Paste. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 12734. Sample No. 80419-F.)

LIBEL FILED: June 24, 1944, Southern District of Illinois.

ALLEGED SHIPMENT: On or about February 17, 1944, by the Fresno Home Packing Co., from Fresno, Calif.

PRODUCT: 411 80-pound boxes of fig paste at Peoria, Ill.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, larvae, pupae, and insect fragments.

DISPOSITION: November 8, 1944. Koligian Brothers, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be converted into commercial alcohol, under the supervision of the Food and Drug Administration and the Alcohol Tax Unit.

8042. Misbranding of canned fruit cocktail. U. S. v. 200 Cases of Canned Fruit Cocktail. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 11451. Sample No. 29761-F.)

LIBEL FILED: December 20, 1943, Eastern District of New York.

ALLEGED SHIPMENT: On or about October 21, 1943, by the Hunt Bros. Packing Co., from San Francisco, Calif.

PRODUCT: 200 cases, each containing 24 cans, of fruit cocktail, at Long Island City, N. Y.

LABEL, IN PART: "Hunt's Supreme Quality Fancy Fruit Cocktail."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the term "Fancy" was false and misleading since the product was not fancy because of the presence of pear calyxes and core material, broken pieces of peach pits, and numerous large, partly cut pieces of pears and peaches; and, Section 403 (g) (1), the product failed to conform to the definition and standard for canned fruit cocktail since the definition and standard requires that canned fruit cocktail shall contain not less than 2 percent of one of the optional cherry ingredients, i. e., cherries artificially colored red, whereas the product contained less than 2 percent of cherries artificially colored red.

DISPOSITION: January 17, 1945. The Hunt Bros. Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

8043. Adulteration and misbranding of strawberry jam and red raspberry jam. U. S. v. 92 Jars of Red Raspberry Jam (and 3 other seizure actions against red raspberry jam and strawberry jam). Decrees of condemnation. One lot ordered destroyed; remaining lots ordered released under bond. (F. D. C. Nos. 13309, 13626, 13628, 14900. Sample Nos. 52715-F, 52736-F, 88341-F, 88554-F.)

LIBELS FILED: Between August 7, 1944, and January 5, 1945, District of Massachusetts.

ALLEGED SHIPMENT: Between the approximate dates of June 9 and September 21, 1944, by the Mactavish Preserves Co., Inc., Brooklyn and Long Island City, N. Y.

PRODUCT: Red raspberry jam: 103 cases, each containing 24 1-pound jars, at Boston, Mass, 7 cases, each containing 24 1-pound jars, at Fitchburg, Mass., and 92 1-pound jars at Jamaica Plain, Mass.; strawberry jam: 19 cases, each containing 24 1-pound jars, at Somerville, Mass. Analysis showed that all lots of the articles were deficient in fruit, and, in addition, the Fitchburg lot contained less than 68 percent of soluble solids, the Boston and Somerville lots contained added water, and the Jamaica Plain lot contained added water and phosphoric acid or acid phosphate, and less than 68 percent of soluble solids.

LABEL, IN PART: (Jars) "Mactavish Pure Red Raspberry [or "Strawberry"] Jam."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), articles deficient in fruit and of the composition previously stated had been substituted in whole or in part for red raspberry jam and strawberry jam, foods for which definitions and standards of identity have been prescribed by the regulations; and, Section 402 (b) (1), (Jamaica Plain lot) a valuable constituent, raspberries, had been in part omitted from the article.

Misbranding, Section 403 (g) (1), the articles failed to conform to the definitions and standards of identity since all lots were made from mixtures composed of less than 45 parts by weight of the fruit ingredient to each 55 parts by weight of one of the saccharine ingredients; the Jamaica Plain and Fitchburg lots had not been concentrated by heat to such point that the soluble solids content of the finished article was not less than 68 percent; and the Jamaica Plain lot contained added water and phosphoric acid or acid phosphate; and, Section 403 (a), (Jamaica Plain lot) the name "Red Raspberry Jam" was false and misleading.

DISPOSITION: November 17, 1944. The Mactavish Preserves Co., claimant for the Jamaica Plain, Boston, and Somerville lots, having admitted the allegations of the libels, and the cases having been consolidated, judgment of condemnation was entered and the products were ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. On February 19, 1945, no claimant having appeared for the Fitchburg lot, judgment of condemnation was entered and the product was ordered destroyed.

8044. Adulteration and misbranding of blackberry jam. U. S. v. 50 Cases and 25 Cases of Blackberry Jam. Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 14046, 14445. Sample Nos. 71382-F, 71384-F.)

LIBELS FILED: On or about October 30, 1944, and January 13, 1945, District of Oregon.

ALLEGED SHIPMENT: On or about September 1 and 8, 1944, by Inez McDonald, from Grass Valley, Calif.

PRODUCT: 75 cases, each containing 24 1-pound, 4-ounce jars, of blackberry jam at Portland, Oreg. Examination showed that the article was moldy.

LABEL, IN PART: (Jars) "Home Made Pure Fruit Product Wild Blackberry Jam."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance; and, Section 402 (b) (2), a product of less than 68 percent soluble solids content had been substituted in whole or in part for blackberry jam, a food for which a definition and standard of identity has been prescribed by the regulations.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity since the blackberry jam was not concentrated by heat to such a point that the soluble solids content of the finished jam was not less than 68 percent.

DISPOSITION: December 6, 1944, and February 17, 1945. The Northwest Grocery Co., Portland, Oreg., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

8045. Adulteration of raisins. U. S. v. 79 Cartons of Raisins. Default decree of condemnation and destruction. (F. D. C. No. 13852. Sample No. 63919-F.)

LIBEL FILED: October 4, 1944, Southern District of Florida.

ALLEGED SHIPMENT: On or about May 29, 1944, by the California Packing Corporation, from Fresno, Calif.

PRODUCT: 79 30-pound cartons of raisins at Jacksonville, Fla.

LABEL, IN PART: (Cartons) "Luxury Brand Extra Fancy Golden Bleached Thompson Seedless Raisins."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-infested raisins.

DISPOSITION: December 6, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

VEGETABLES

8046. Adulteration of canned beans with pork and tomato sauce. U. S. v. 199 Cases of Canned Beans With Pork. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 14192. Sample No. 75942-F.)

LIBEL FILED: November 6, 1944, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about February 23, 1944, by the Phillips Packing Co., Inc., from Cambridge, Md.

PRODUCT: 199 cases, each containing 24 1-pound, 5-ounce cans, of beans with pork at Washington, Pa.

LABEL, IN PART: "Phillips Delicious Beans with Pork and Delicious Tomato Sauce."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: February 21, 1945. The Phillips Packing Co., Inc., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation of the fit portion, under the supervision of the Food and Drug Administration.

8047. Adulteration and misbranding of canned brussels sprouts. U. S. v. 97 Cases of Brussels Sprouts. Default decree of condemnation and destruction. (F. D. C. No. 14198. Sample No. 75130-F.)

LIBEL FILED: November 17, 1944, Western District of Washington.

ALLEGED SHIPMENT: On or about January 27, 1944, by the Howard Terminal Warehouse Co., from Oakland, Calif.

PRODUCT: 97 cases, each containing 24 jars, of brussels sprouts at Seattle, Wash. Examination showed that the product was short of the declared weight.

LABEL, IN PART: "Elpaco Brussel Sprouts contents 16 Oz. Avoir."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of aphids and thrips.

Misbranding, Section 403 (e) (2), it failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: April 28, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8048. Misbranding of canned mushrooms. U. S. v. Roland E. West (West Mushroom Co.). Plea of nolo contendere. Fine, \$25. (F. D. C. No. 12566. Sample No. 74402-F.)

INFORMATION FILED: January 26, 1945, District of Oregon, against Roland E. West, trading as the West Mushroom Co., Salem, Oreg.

ALLEGED SHIPMENT: On or about May 12, 1944, from the State of Oregon into the State of Washington.

LABEL, IN PART: "Shady Oak Fancy Buttons Mushrooms * * * Contents 8 oz. Avoir. Drained."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents inasmuch as the labels affixed to the cans bore the statement "Contents 8 oz. Avoir. Drained," and the drained weight of the contents of the cans was less than 8 ounces avoirdupois.

DISPOSITION: February 2, 1945. The defendant having entered a plea of nolo contendere, a fine of \$25 was imposed.

8049. Misbranding of canned peas. U. S. v. 198 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 13998. Sample No. 67979-F.)

LIBEL FILED: On or about October 16, 1944, Southern District of Indiana.

ALLEGED SHIPMENT: On or about August 29, 1944, by the Eavey Co., Xenia, Ohio.

PRODUCT: 198 cases, each containing 24 1-pound, 4-ounce cans, of peas at Richmond, Ind.

LABEL, IN PART: (Cans) "Sun Bird Wisconsin Sweet Peas * * * Size 3 Packed by Reedsburg Foods Corp. Reedsburg, Wis."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the statement "Size 3" was false and misleading since the product was ungraded for size; Section 403 (g) (2), the article failed to bear, as required by the regulations, the name of the food, since its label bore the statement "Sweet Peas," whereas the product was canned peas of Alaska or other smooth-skin varieties; and, Section 403 (h) (1), the article was an Alaska or other smooth-skin variety of peas, and its quality fell below the standard prescribed by the regulations for such peas because of alcohol-insoluble solids in excess of 23.5 percent, and its label did not bear the substandard legend as required by the regulations.

DISPOSITION: December 12, 1944. The Eavey Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

8050. Adulteration of frozen peas. U. S. v. 250 Cases of Frozen Peas. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 13837. Sample No. 76754-F.)

LIBEL FILED: October 10, 1944, District of New Jersey.

ALLEGED SHIPMENT: On or about June 27, 1944, by the S. A. Moffett Co., from Grandview, Wash.

PRODUCT: 250 cases, each containing 36 12-ounce cartons, of frozen peas at Jersey City, N. J.

LABEL, IN PART: (Cartons) "Polar Frosted Foods Green® Peas."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: November 22, 1944. Samuel A. Moffett, trading as the S. A. Moffett Co., claimant, having admitted the allegations in the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration.

8051. Misbranding of potatoes. U. S. v. Edison Produce Co. Plea of nolo contendere. Fine, \$50. (F. D. C. No. 12524. Sample No. 37988-F.)

INFORMATION FILED: July 5, 1944, Southern District of California, against the Edison Produce Co., a partnership, Wasco, Calif.

ALLEGED SHIPMENT: On or about June 1, 1943, from the State of California into the State of Illinois.

LABEL, IN PART: (Sacks) "California Potatoes R. W. Ferguson Bakersfield, Calif. 100 Lbs. Net Weight."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the statement "100 Lbs. Net Weight" was false and misleading as applied to the article, which was short-weight; and, Section 403 (e) (2), the product was in package form and its label failed to bear an accurate statement of the quantity of the contents.

DISPOSITION: October 23, 1944. A plea of nolo contendere having been entered, a fine of \$50 was imposed.

8052. Misbranding of potatoes. U. S. v. Michael-Swanson-Brady Produce Co. Plea of guilty. Fine, \$25. (F. D. C. No. 14213. Sample Nos. 61681-F, 66645-F.)

INFORMATION FILED: March 1, 1945, Eastern District of Louisiana, against the Michael-Swanson-Brady Produce Co., a corporation, Kansas City, Mo.

ALLEGED SHIPMENT: On or about May 22, 1944, from the State of Louisiana into the State of Missouri.

LABEL, IN PART: (Sacks) "100 Lbs. Net Lafourche Triumphs Potatoes Lafourche Parish, La."

VIOLATION CHARGED: Misbranding, Section 403 (e), the label on the sacks failed to bear an accurate statement of the quantity of the contents, since the sacks contained less than 100 pounds net.

DISPOSITION: May 16, 1945. A plea of guilty having been entered on behalf of the defendant, a fine of \$25 was imposed.

8053. Misbranding of potatoes. U. S. v. The Miller Fruit Co., Inc. Plea of nolo contendere. Fine, \$10. (F. D. C. No. 12523. Sample No. 38165-F.)

INFORMATION FILED: September 11, 1944, Southern District of California, against the Miller Fruit Co., Inc., Magunden, Calif.

ALLEGED SHIPMENT: On or about June 10, 1943, from the State of California into the State of Illinois.

LABEL, IN PART: (Sacks) "U. S. No. 1 Long White California Potatoes * * * 100 Lbs. Net Weight."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the statement on the sacks, "100 Lbs. Net Weight," was false and misleading since the product was

short-weight; and, Section 403 (e) (2), the product was in package form and its label failed to bear an accurate statement of the quantity of the contents.

DISPOSITION: October 9, 1944. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$10 was imposed.

8054. Adulteration of fried shoestring potatoes. U. S. v. The Spudette Co. Plea of nolo contendere. Fine, \$100. (F. D. C. No. 12620. Sample Nos. 70632-F, 70634-F.)

INFORMATION FILED: January 12, 1945, Northern District of California, against the Spudette Co., a partnership, San Francisco, Calif.

ALLEGED SHIPMENT: On or about February 12, 1944, from the State of California into the State of Washington.

LABEL, IN PART: "Spudette Shoestring Potatoes."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of whole insects, insect fragments, insect-tunnelled potatoes, and insect excreta pellets; and, Section 402 (a) (4), it had been prepared and packed under unsanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 9, 1945. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$100.

8055. Adulteration of sweet relish. U. S. v. 47 Cases and 8¼ Cases of Sweet Relish. Default decree of condemnation and destruction. (F. D. C. No. 13969. Sample Nos. 80131-F, 80793-F.)

LIBEL FILED: October 20, 1944, Eastern District of Illinois.

ALLEGED SHIPMENT: On or about July 24, 1944, by the Kokomo Packing Co., from Kokomo, Ind.

PRODUCT: 47 cases, each containing 12 24-ounce jars, and 8¼ cases, each containing 24 16-ounce jars, of sweet relish at Champaign, Ill.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance as evidenced by mold.

DISPOSITION: February 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

TOMATOES AND TOMATO PRODUCTS*

8056. Adulteration of tomato juice. U. S. v. 766 Cases of Tomato Juice. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 12850. Sample No. 61566-F.)

LIBEL FILED: July 3, 1944, Western District of Texas.

ALLEGED SHIPMENT: On or about February 7, 1944, by the National Fruit Products, Inc., from Olive, Calif.

PRODUCT: 766 cases, each containing 12 cans, of tomato juice at Austin, Tex.

LABEL, IN PART: (Cans) "Contents 1 Qt. 14 Fl. Oz. Del Haven Brand Tomato Juice Seasoned with Salt Packed for Federated Foods Inc. San Francisco, Calif. Chicago, Ill."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: December 18, 1944. The John Bremond Co., Austin, Tex., having appeared as claimant and consented to the entry of the decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the good portion be separated from the bad, and that both portions be disposed of in compliance with the law, under the supervision of the Food and Drug Administration.

8057. Misbranding of fresh tomatoes. U. S. v. Otto J. Krause and Fred Scherzer (Midland Produce Co.). Plea of nolo contendere. Fine, \$250. (F. D. C. No. 14275. Sample Nos. 58278-F, 69255-F, 69413-F.)

INFORMATION FILED: May 9, 1945, District of Colorado, against Otto J. Krause and Fred Scherzer, trading as the Midland Produce Co., a partnership, at Denver, Colo.

ALLEGED SHIPMENT: On or about June 9 and 27 and May 24, 1944, from the State of Colorado into the States of Wyoming and Kansas.

*See also No. 8046.

LABEL, IN PART: (Cartons) "Tomatoes 10 Lbs. Net"; (boxes) "Blue Goose Texas Tomatoes * * * Net Weight 30 Lbs.," or "Our Very Best Grade Tomatoes Net Weight When Packed 30 Lbs."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the product was in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents, since the cartons and boxes contained less than the declared weight.

DISPOSITION: June 2, 1945. The defendant, Krause, having entered a plea of nolo contendere, the court imposed a fine of \$50 on each of the 5 counts, a total fine of \$250.

8058. Adulteration of tomato puree. U. S. v. Butterfield Canning Co. Plea of guilty. Fine, \$200. (F. D. C. No. 12577. Sample Nos. 4157-F, 67348-F.)

INFORMATION FILED: October 24, 1944, Southern District of Indiana, against the Butterfield Canning Co., a corporation, Muncie, Ind.

ALLEGED SHIPMENT: On or about November 3 and 8, 1943, from the State of Indiana into the States of Ohio and Kentucky.

LABEL, IN PART: "Butterfield Brand [or "Indiano Brand"] Tomato Puree."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of excessive mold, rot fragments, and vinegar fly eggs.

DISPOSITION: December 2, 1944. A plea of guilty having been entered on behalf of the defendant, a fine of \$200 was imposed.

8059. Adulteration of tomato puree. U. S. v. Zion's Cooperative Mercantile Institution (Zion's Wholesale Grocery). Plea of guilty. Fine, \$25. (F. D. C. No. 12619. Sample No. 15794-F.)

INFORMATION FILED: November 22, 1944, District of Utah, against Zion's Cooperative Mercantile Institution, a corporation trading as Zion's Wholesale Grocery, Ogden, Utah.

ALLEGED SHIPMENT: On or about January 22, 1943, from the State of Utah into the State of Idaho.

LABEL, IN PART: "Smith Brand Tomato Puree * * * Packed by Smith Canning Co. Clearfield, Utah."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: January 10, 1945. A plea of guilty having been entered on behalf of the defendant, a fine of \$25 was imposed.

8060. Adulteration of tomato sauce. U. S. v. Rosario Raspanti. Plea of guilty. Fine, \$100. (F. D. C. No. 10642. Sample Nos. 9954-F, 9959-F, 10282-F.)

INDICTMENT RETURNED: May 3, 1944, Southern District of Mississippi, against Rosario Raspanti, trading as the Uddo & Taormina Co., Crystal Springs, Miss.

ALLEGED SHIPMENT: Between the approximate dates of February 24 and July 20, 1942, from the State of Mississippi into the State of Louisiana.

LABEL, IN PART: "Baby Brand Tomato Sauce Distributed By Uddo & Taormina Company Crystal Springs, Miss."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance, i. e., moldy and decomposed tomato tissues.

DISPOSITION: August 25, 1944. A plea of guilty having been entered, the defendant was fined \$100.

8061. Adulteration of tomato soup. U. S. v. 432 Cases and 50 Cases of Tomato Soup. Decrees of condemnation and destruction. (F. D. C. Nos. 9506, 10073. Sample Nos. 29059-F, 28960-F.)

LIBEL FILED: March 9 and June 9, 1943, Northern District of Georgia.

ALLEGED SHIPMENT: On or about January 18 and February 3, 1943, by the Phillips Sales Co., Inc., from Cambridge, Md.

PRODUCT: 432 cases and 50 cases, each containing 48 10½-ounce cans, of tomato soup, at Atlanta, Ga.

LABEL, IN PART: "Phillips Delicious * * * Tomato Soup."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance as evidenced by the presence of mold.

DISPOSITION: May 14, 1945. The Phillips Packing Co., Inc., having consented to the entry of a decree, judgments of condemnation were entered and the product was ordered destroyed.

NUTS AND NUT PRODUCTS

8062. Adulteration of shelled almonds and shelled pecans. U. S. v. 7 Cartons of Shelled Almonds and 7 Cartons of Shelled Pecans. Default decree of condemnation and destruction. (F. D. C. No. 13904. Sample Nos. 74228-F, 74229-F.)

LIBEL FILED: October 4, 1944, Eastern District of Washington.

ALLEGED SHIPMENT: On or about September 9, 1944, by Toby's Food Products Packing Co., Los Angeles, Calif.

PRODUCT: 7 cartons, each containing 30 1-ounce packages, of shelled almonds, and 7 cartons, each containing 30 1-ounce packages, of shelled pecans, at Yakima, Wash.

LABEL, IN PART: "Take-A-Pack Shelled Almonds [or "Pecans"]."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect excreta.

DISPOSITION: November 20, 1944. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

8063. Adulteration of peanuts. U. S. v. South Quay Peanut Co. Plea of nolo contendere. Fine, \$100. (F. D. C. No. 14209. Sample No. 63206-F.)

INFORMATION FILED: February 22, 1945, Eastern District of Virginia, against the South Quay Peanut Co., a partnership, Franklin, Va.

ALLEGED SHIPMENT: On or about February 11, 1944, from the State of Virginia into the State of North Carolina.

LABEL, IN PART: "No. 2 Peanuts."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of rancid, moldy, and dirty peanuts.

DISPOSITION: May 8, 1945. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$100.

8064. Adulteration of peanut butter. U. S. v. Commercial Creamery Co. Plea of guilty. Fine, \$5,400. (F. D. C. No. 14227. Sample Nos. 71642-F, 71643-F, 71732-F.)

INFORMATION FILED: December 22, 1944, Eastern District of Washington, against the Commercial Creamery Co., Spokane, Wash.

ALLEGED SHIPMENT: On or about April 26 and May 3 and 8, 1944, from the State of Washington into the State of Idaho.

LABEL, IN PART: "Eatsum Brand Peanut Butter."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent pellet fragments, rodent hairs, insect fragments, insect legs, and cast skins; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth, since the defendant's manufacturing plant was overrun with rodents, and rodent pellets and hair were prevalent throughout the plant.

DISPOSITION: April 2, 1945. A plea of guilty having been entered on behalf of the defendant, a fine of \$900 on each of 6 counts, a total fine of \$5,400, was imposed.

8065. Adulteration of peanut butter. U. S. v. Denison Peanut Co., Inc. Plea of guilty. Fine, \$100. (F. D. C. No. 14208. Sample No. 66790-F.)

INFORMATION FILED: November 15, 1944, Eastern District of Texas, against the Denison Peanut Co., Inc., Denison, Tex.

ALLEGED SHIPMENT: On or about March 1, 1944, from the State of Texas into the State of Oklahoma.

LABEL, IN PART: "Nature's Best * * * Peanut Butter."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments, excreta fragments resembling rodent excreta, insects, and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 6, 1944. A plea of guilty having been entered on behalf of the defendant, a fine of \$100 was imposed.

8066. Adulteration of peanut butter. U. S. v. 137 Cases of Peanut Butter. Default decree of condemnation. Product ordered sold to be denatured. (F. D. C. No. 13121. Sample No. 72579-F.)

LIBEL FILED: August 5, 1944, Western District of Tennessee.

ALLEGED SHIPMENT: On or about June 12, 1944, by the Robertson Peanut Co., from Clayton, Ala.

PRODUCT: 137 cases, each containing 12 2-pound jars, of peanut butter, at Memphis, Tenn.

LABEL, IN PART: "Delicious Brand Peanut Butter."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent hair fragments.

DISPOSITION: February 3, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold to be denatured under the supervision of the Federal Security Agency and disposed of for purposes other than human consumption.

8067. Adulteration of peanut butter. U. S. v. 33 Cases of Peanut Butter. Default decree of condemnation and destruction. (F. D. C. No. 14008. Sample No. 79664-F.)

LIBEL FILED: October 30, 1944, Eastern District of North Carolina.

ALLEGED SHIPMENT: On or about August 25, 1943, by the Sessions Co., Inc., from Enterprise, Ala.

PRODUCT: 33 cases, each containing 12 1-pound, 8-ounce jars, of peanut butter at Rocky Mount, N. C.

LABEL, IN PART: (Jars) "School Day Brand Peanut Butter * * * Made By Peanut Products Co. Enterprise, Ala."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of rodent hair fragments, insect fragments, dirt, and rancid peanut butter.

DISPOSITION: March 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8068. Adulteration and misbranding of peanut butter. U. S. v. Texas Peanut Products Co. Plea of guilty. Fine, \$160. (F. D. C. No. 12522. Sample No. 41416-F.)

INDICTMENT RETURNED: September 26, 1944, Southern District of Texas, against the Texas Peanut Products Co., a corporation, Houston, Tex.

ALLEGED SHIPMENT: On or about September 23, 1943, from the State of Texas into the State of Louisiana.

LABEL, IN PART: (Jars) "Rich in The B Vitamin. Tom Sawyer Peanut Butter * * * Net Wt. 2 Pounds [or "¾ Pound," or "1 Pound"]."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rat and mouse excreta pellet fragments containing hairs, and insect fragments; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Section 403 (a), the label statements, "Net Wt. 2 Pounds [or "1 Pound," or "¾ Pound]," were false and misleading as applied to the product, which was short-weight; and, Section 403 (e), the product failed to bear a label containing an accurate statement of the quantity of the contents of the jars.

DISPOSITION: March 8, 1945. A plea of guilty having been entered on behalf of the defendant, a fine of \$160 was imposed on all 4 counts.

8069. Adulteration and misbranding of peanut butter. U. S. v. 141 Cases of Peanut Butter. Default decree of condemnation. Product ordered sold for purposes other than human consumption. (F. D. C. No. 13177. Sample No. 72072-F.)

LIBEL FILED: August 12, 1944, Western District of Tennessee.

ALLEGED SHIPMENT: On or about November 11, 1943, by the Rainier Packing Co., from Montgomery, Ala.

PRODUCT: 141 cases, each containing 24 jars, of peanut butter at Memphis, Tenn.
LABEL, IN PART: "Net Contents 12 Ounces Brownee Peanut Butter Brownee Company Montgomery, Alabama."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of dirt.

Misbranding, Section 403 (a), the label statement, "Net Contents 12 Ounces," was false and misleading as applied to the article, which was short-weight; and, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents in terms of weight.

DISPOSITION: February 3, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold to be denatured and disposed of for purposes other than human consumption.

8070. Misbranding of peanut butter. U. S. v. Cherokee Products Co. Plea of nolo contendere. Fine, \$1,500. (F. D. C. No. 14224. Sample Nos. 35738-F, 36666-F, 36667-F, 44460-F.)

INFORMATION FILED: February 19, 1945, Middle District of Georgia, against the Cherokee Products Co., a partnership, Haddock, Ga.

ALLEGED SHIPMENT: Between the approximate dates of April 24 and December 7, 1943, from the State of Georgia into the States of New York, Colorado, and South Carolina.

LABEL, IN PART: (Jars) "Georgia Gold Net weight 12 ozs. [or "1 Lb," or "2 Lbs.]" Peanut Butter."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents, since the jars contained less than the amount declared.

DISPOSITION: April 23, 1945. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$500 on each of 3 counts, a total fine of \$1,500.

8071. Misbranding of peanut butter. U. S. v. Dillon Candy Co., Inc. Plea of nolo contendere. Defendant placed on probation for 5 years. (F. D. C. No. 12587. Sample Nos. 6862-F, 35744-F, 48708-F, 48709-F.)

INFORMATION FILED: December 5, 1944, Southern District of Florida, against the Dillon Candy Co., Inc., Jacksonville, Fla.

ALLEGED SHIPMENT: Between the approximate dates of July 18 and December 25, 1943, from the State of Florida into the States of Illinois, South Carolina, and Tennessee.

LABEL, IN PART: "Armour's Star * * * 6 Oz. Avoir Net. [or "2 Lbs. Net"] Peanut Butter * * * Armour And Company Distributors Gen'l Office Chicago, Ill.," or "Fresh Maid Peanut Butter Net 1 Lb. [or "Net 12 Oz.]."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the labels failed to bear an accurate statement of the quantity of the contents, since the jars contained less than the declared weight.

DISPOSITION: January 3, 1945. A plea of nolo contendere having been entered, the defendant was placed on probation for 5 years, to report as required, and on the condition that the corporate successor to the Dillon Candy Company and the former officers of the Dillon Candy Company fully cooperate with the Food and Drug Administration.

8072. Adulteration of shelled pecan pieces. U. S. v. 24 Cans of Shelled Pecan Pieces. Default decree of condemnation and destruction. (F. D. C. No. 13761. Sample No. 72970-F.)

LIBEL FILED: September 29, 1944, Northern District of California.

ALLEGED SHIPMENT: On or about February 18, 1944, by the R. E. Funsten Co., from St. Louis, Mo.

PRODUCT: 24 cans, each containing 25 pounds, of shelled pecan pieces at Oakland, Calif.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae.

DISPOSITION: March 3, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8073. Adulteration of pecan pieces. U. S. v. 12 Cases of Pecan Pieces. Default decree of condemnation and destruction. (F. D. C. No. 12360. Sample No. 35969-F.)

LIBEL FILED: On or about May 12, 1944, Northern District of Georgia.

ALLEGED SHIPMENT: On or about April 25, 1944, by the Southern Edible Products Co., from Chicago, Ill., to Atlanta, Ga. The shipment was originally consigned by that company from Albany, Ga., to Chicago, Ill.

PRODUCT: 12 cases, each containing 50 pounds, of pecan pieces, at Atlanta, Ga.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of rancid and moldy pecans, and in that it contained *Escherichia coli*, an organism which indicates pollution of fecal origin.

DISPOSITION: April 27, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

OILS AND FATS

8074. Adulteration and misbranding of mayonnaise. U. S. v. Raymond E. Camp (Camp Sandwich Co.). Plea of nolo contendere. Fine, \$75. (F. D. C. No. 14233. Sample No. 63408-F.)

INFORMATION FILED: January 9, 1945, Western District of South Carolina, against Raymond E. Camp, trading as the Camp Sandwich Co., Gaffney, S. C.

ALLEGED SHIPMENT: On or about February 8, 1944, from the State of South Carolina into the State of North Carolina.

PRODUCT: This product was invoiced as "Mayonnaise."

LABEL, IN PART: "Dutch Maid Lunch Room Special * * * Packed For F. H. Seelye—Broker Charlotte, N. C."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), a substance containing little or no edible food oil, and consisting largely of nonnutritive mineral oil, had been substituted in whole or in part for mayonnaise, a product that contains a large amount of food oil or oils and does not contain nonnutritive mineral oil, and which the article purported and was represented to be.

Misbranding, Section 403 (b), the article contained little or no edible food oil or oils and consisted largely of nonnutritive mineral oil, and it was offered for sale under the name of another food, mayonnaise.

DISPOSITION: February 19, 1945. A plea of nolo contendere having been entered by the defendant, the court imposed a fine of \$75.

8075. Adulteration and misbranding of edible oils. U. S. v. Antonio Certo (Keystone Grocery Distributing Co.). Plea of nolo contendere. Fine, \$300 and costs. (F. D. C. No. 14218. Sample Nos. 50357-F, 50358-F, 50377-F.)

INFORMATION FILED: January 3, 1945, Western District of Pennsylvania, against Antonio Certo, trading as the Keystone Grocery Distributing Co., at Pittsburgh, Pa.

ALLEGED SHIPMENT: Between the approximate dates of October 4, 1943, and March 15, 1944, from the State of Pennsylvania into the States of Ohio and West Virginia.

LABEL, IN PART: "Fortebraccio * * * Brand 80% Cottonseed And Corn Oils 20% Pure Olive Oil."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, olive oil, had been in part omitted from the article; and, Section 402 (b) (2), a product consisting essentially of cottonseed oil and corn oil, and containing little or no olive oil, had been substituted for 80 percent cottonseed and corn oils and 20 percent pure olive oil, which the product was represented to be.

Misbranding, Section 403 (a), the label statement, "80% Cottonseed And Corn Oils 20% Pure Olive Oil," was false and misleading; Section 403 (f), the information required by law to appear on the label was not prominently placed thereon in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use, since the label of the product contained representations in the Italian language and all of the information required by law to appear on the label did

not appear thereon in the Italian language; and (portion), Section 403 (k), it contained artificial flavoring and failed to bear labeling stating that fact.

DISPOSITION: June 14, 1945. A plea of nolo contendere having been entered by the defendant, a fine of \$50 on each of 6 counts, a total fine of \$300 plus costs, was imposed.

8076. Adulteration and misbranding of edible oil. U. S. v. 11 Cans of Oil. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 13841. Sample No. 82771-F.)

LIBEL FILED: October 2, 1944, Southern District of New York.

ALLEGED SHIPMENT: On or about August 23, 1944, by the Lucatelli Packing Co., West New York, N. J.

PRODUCT: 11 1-gallon cans of oil at New York, N. Y.

LABEL, IN PART: (Cans) "One Gallon Net Imported Produce Lucatelli Superfine Olive Oil."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), a substance containing about 30 percent of peanut oil had been substituted in whole or in part for olive oil, which the article was represented to be.

Misbranding, Section 403 (a), the designs of gold medals and of olive branches, and the label statements, "Imported Produce * * * Superfine Olive Oil Guaranteed 100% Pure" and "Extra Sublime This can contains the cream of imported virgin olive oil guaranteed to be chemically pure—It excels for table cooking and medicinal use," (and similar statements in Italian) were false and misleading as applied to an article containing about 30 percent of peanut oil.

DISPOSITION: March 3, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions, after withdrawal of one of the cans of oil by the Food and Drug Administration.

8077. Misbranding of edible oil. U. S. v. 231 Cases and 28 Cases of Oil. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 12147. Sample Nos. 51890-F, 51891-F.)

LIBEL FILED: April 17, 1944, District of Rhode Island; amendment to libel filed January 10, 1945.

ALLEGED SHIPMENT: Between the approximate dates of December 9, 1943, and February 10, 1944, by the Gem Packing Corporation, from Brooklyn, N. Y.

PRODUCT: 231 cases, each containing 6 1-gallon cans, of oil and 28 cases, each containing 12 ½-gallon cans, of oil at Georgiaville, R. I. Analysis showed that the product contained little or no peanut or olive oil.

LABEL, IN PART: "Gem Brand Choice Cottonseed, Corn, Peanut Oils and Extra Fine Olive Oil."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the label statements, "Choice Cottonseed, Corn, Peanut Oils and Extra Fine Olive Oil," were misleading in that they created in the mind of the purchaser the impression and belief that the article contained a substantial quantity of olive oil and peanut oil, whereas the article contained little or no olive oil and little or no peanut oil; and, Section 403 (f), the label contained representations in a foreign language, Italian, and the statement of the quantity of the contents and the common or usual name of each ingredient, required by law to appear on the label, did not appear thereon in the foreign language.

DISPOSITION: March 17, 1945. The Gem Packing Corporation, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that an additional amount of peanut oil and olive oil be added and that the product be repackaged and relabeled under the supervision of the Food and Drug Administration.

8078. Adulteration and misbranding of salad dressing. U. S. v. Henry T. Morin (Green Garden Food Products). Plea of guilty. Fine, \$150 and costs. (F. D. C. No. 14212. Sample No. 43160-F.)

INFORMATION FILED: March 21, 1945, Western District of Washington, against Henry T. Morin, trading as the Green Garden Food Products, Seattle, Wash.

ALLEGED SHIPMENT: On or about August 31, 1943, from the State of Washington into the State of Oregon, of a number of tubs containing a product invoiced as "Salad Dressing."

LABEL, IN PART: (On a number of tubs) "Green Garden Food Products * * * Cottonseed Oil, Fresh Eggs, Sugar, Vinegar, Cornstarch and Spices. Color added Salad Dressing." The remainder of the tubs were unlabeled.

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent of the article, an edible food oil, had been in whole or in part omitted; Section 402 (b) (2), a product containing mineral oil, a nonnutritive substance, had been substituted for salad dressing, a product that does not contain nonnutritive mineral oil; and, Section 402 (b) (4), mineral oil, a substance having no food value, had been added to the article and had been mixed and packed with it so as to reduce its quality.

Misbranding (labeled portion), Section 403 (a), the label statement, "Cottonseed Oil, Fresh Eggs, Sugar, Vinegar, Cornstarch and Spices. Color added Salad Dressing," was false and misleading since the article did not consist entirely of the ingredients listed but consisted in large part of mineral oil, a non-nutritive substance not listed on the label; and, Section 403 (b), the article was not salad dressing but was a substance containing mineral oil, offered for sale under the name of salad dressing.

Further misbranding (unlabeled portion), Section 403 (b), the article was not salad dressing but was a substance containing mineral oil, and it was offered for sale under the name of salad dressing; Section 403 (e) (1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), it failed to bear an accurate statement of the quantity of the contents; Section 403 (i) (1), it failed to bear the common or usual name of the article; and, Section 403 (i) (2), it failed to bear the common or usual name of each of the ingredients.

DISPOSITION: March 30, 1945. A plea of guilty having been entered, the defendant was fined \$149 on count 1 and \$1 on count 2, together with costs.

8079. Adulteration of salad dressing. U. S. v. 103 Cases of Salad Dressing. Default decree of condemnation. Product ordered used for war purposes. (F. D. C. No. 13495. Sample No. 71753-F.)

LIBEL FILED: September 2, 1944, District of Idaho.

ALLEGED SHIPMENT: On or about May 23 and 29, 1944, by the Tasty Foods Co., from Portland, Oreg.

PRODUCT: 103 cases, each containing 12 1-quart jars, of salad dressing at Nampa, Idaho.

LABEL, IN PART: "Over the Top Brand * * * Salad Dressing."

VIOLATION CHARGED: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, monochloroacetic acid, which was unsafe since it was a substance not required in the production of the food, and could have been avoided by good manufacturing practice.

DISPOSITION: March 31, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to the Fat Salvage Unit of the War Production Board.

MISCELLANEOUS FOOD PRODUCTS

8080. Adulteration of chewing gum. U. S. v. 133 Cases of Chewing Gum. Default decree of condemnation and destruction. (F. D. C. No. 14001. Sample No. 88140-F.)

LIBEL FILED: October 4, 1944, District of Massachusetts.

ALLEGED SHIPMENT: On or about August 14, 1944, by the Fort Bliss Exchange from El Paso, Tex. This was a returned shipment. The product was originally shipped by Gum Products, Inc., from Boston, Mass.

PRODUCT: 133 cases, each containing 55 boxes of 20 five-cent packages, of chewing gum, at Boston, Mass.

LABEL, IN PART: "Yanks Chewing Gum Aid to Brighter Teeth * * * Gum Products, Inc., Boston, Mass."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 11, 1945. Gum Products, Inc., having entered an appearance but having filed no answer, judgment of condemnation was entered and the product was ordered destroyed.

8081. Adulteration of green color. U. S. v. 27 Packages of Green Color. Default decree of condemnation and destruction. (F. D. C. No. 14131. Sample No. 79100-F.)

LIBEL FILED: October 26, 1944, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about June 1, 1944, by the Premier Color Works, New York, N. Y.

PRODUCT: 27 1-pound packages of green color at Detroit, Mich. The article was represented by the shipper (seller) to the consignee as food coloring, and therefore was offered for sale as a food ingredient and was being used in foods.

LABEL, IN PART: "Green Color DS—Oil Soluble For Technical Use * * * A Harmless Color."

VIOLATION CHARGED: Adulteration, Section 402 (c), the product contained a coal-tar color that had not been listed for use in foods in accordance with regulations, and was other than one from a batch that had been certified.

DISPOSITION: March 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8082. Adulteration of saccharic acid. U. S. v. 226 Cases of Saccharic Acid. Default decree of condemnation and destruction. (F. D. C. No. 13706. Sample No. 31080-F.)

LIBEL FILED: September 29, 1944, Western District of Washington.

ALLEGED SHIPMENT: February 18 and 20, 1943, by the Bocker Chemical Co., from Morganville, N. J.

PRODUCT: 226 cases, each containing 4 1-gallon jugs, of saccharic acid at Seattle, Wash. The product was shipped in barrels and was repacked by the consignee.

VIOLATION CHARGED: Adulteration, Section 402 (a) (1), the product contained added poisonous or deleterious substances, hydrocyanic acid and oxalic acid, which may have rendered it injurious to health.

DISPOSITION: May 31, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8083. Adulteration of salt rising yeast. U. S. v. 5 Bags of Salt Rising Yeast. Default decree of condemnation and destruction. (F. D. C. No. 13933. Sample No. 89835-F.)

LIBEL FILED: October 11, 1944, Western District of Tennessee.

ALLEGED SHIPMENT: On or about August 21, 1944, by H. A. Kohman, from Pittsburgh, Pa.

PRODUCT: 5 bags, each containing 25 pounds, of salt rising yeast at Memphis, Tenn.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

DISPOSITION: February 5 and 6, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

VITAMIN PREPARATIONS AND FOODS FOR SPECIAL DIETARY USES

8084. Adulteration of Bragg Mira-Cal Tablets, and misbranding and alleged adulteration of Royce's Vitamin A and D Tablets. U. S. v. William Theodore Thompson (Wm. T. Thompson Co.). Plea of not guilty. Tried to the court. Verdict of not guilty on one count, guilty on the remaining two counts. Fine, \$500. (F. D. C. No. 11427. Sample Nos. 757-F, 39338-F.)

INFORMATION FILED: July 27, 1944, Southern District of California, against William Theodore Thompson, trading as the Wm. T. Thompson Co., Los Angeles, Calif.; charging the defendant with giving false guaranties. The guaranties were given by the defendant to the Royce Pharmacal Co., Los Angeles, Calif., and the Live Foods Products Co., Burbank, Calif., on or about August 14, 1941, and March 3, 1943, and they provided that all foods furnished by the defendant to the latter firms, then or thereafter, would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act. On or about December 30, 1942, the defendant sold and delivered to the Royce Pharmacal Co. a quantity of Royce's Vitamin A and D tablets which were misbranded and allegedly adulterated, and between the approximate dates of April 12 and May 4, 1943, sold and delivered to the Live Food Products Co., a

quantity of Bragg Mira-Cal Tablets that were adulterated. The Bragg Mira-Cal Tablets were shipped from Burbank, Calif., to Chicago, Ill., between the approximate dates of May 5 and 13, 1943, and the Royce's Vitamin A and D Tablets were shipped from Los Angeles, Calif., to Phoenix, Ariz., on or about January 18, 1943, by the firms holding the guaranties.

VIOLATIONS CHARGED: Bragg Mira-Cal Tablets, adulteration, Section 402 (b) (1), valuable constituents, tricalcium phosphate and irradiated ergosterol, had been in part omitted from the article since each wafer was represented in the guaranty as containing 10 grains of tricalcium phosphate and 293.333 International Units of irradiated ergosterol, whereas each wafer contained not more than 8.5 grains of tricalcium phosphate and not more than 133.33 International Units of irradiated ergosterol.

Royce's Vitamin A and D Tablets, adulteration, Section 402 (b) (1), valuable constituents, vitamins A and D, had been in part omitted from the article, since each tablet was represented to contain 5,000 U. S. P. units of vitamin A and 500 U. S. P. units of vitamin D, whereas each tablet contained not more than 2,500 U. S. P. units of vitamin A and not more than 250 U. S. P. units of vitamin D. Misbranding, Section 403 (a), the statements on the bottle label, "Each Tablet Contains: Vitamin A 5000 U. S. P. Units; Vitamin D 500 U. S. P. Units," were false and misleading; and, Section 403 (j), the article purported to be and was represented as a food for special dietary use by man by reason of its vitamin properties, and its label did not bear, as required by the regulations, a statement of the proportion of the minimum daily requirement for vitamins A and D which would be supplied by the article when consumed in a specified quantity during a period of 1 day.

DISPOSITION: November 9, 1944. The defendant having entered a plea of not guilty, and the case having come on for trial before the court without a jury, the court found the defendant not guilty on the count charging adulteration of Royce's Vitamin A and D Tablets and guilty on the two counts charging misbranding of the Royce's Vitamin A and D tablets and adulteration of the Bragg Mira-Cal Tablets. On the same date the court imposed a fine of \$250 on each of the latter two counts, a total fine of \$500.

8085. Adulteration and misbranding of Beir-Nes Tablets. U. S. v. Percival W. Beirnes (Beir-Nes Laboratories). Plea of nolo contendere. Fine of \$500 on count 1, sentence suspended on count 2, and defendant placed on probation for 2 years. (F. D. C. No. 14303. Sample No. 54121-F.)

INFORMATION FILED: March 26, 1945, Southern District of California, against Percival W. Beirnes, trading as the Beir-Nes Laboratories, Los Angeles, Calif.

ALLEGED SHIPMENT: On or about February 11, 1944, from the State of California into the State of Arizona.

LABEL, IN PART: "Beir-Nes No. 57-VA Biologically Standardized Each Tablet Contains Vegetable Salts with Vitamin A added Vitamin A Fish Liver Oils 5000 I. U. Black Radish Pie Plant Beet Leaves Okra Spinach Asparagus Dandelion."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent of the product, vitamin A, had been in part omitted or abstracted from it since it was represented on its label as containing in each tablet 5,000 International Units of vitamin A, whereas the product contained not more than 2,660 International Units of vitamin A per tablet.

Misbranding, Section 403 (a), the label statement, "Vitamin A 5000 I. U.," was false and misleading; and, Section 403 (j), the article purported to be and was represented for special dietary use by man by reason of its vitamin property in respect of vitamin A, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirement for vitamin A which would be supplied by the product when consumed in a specified quantity during the period of 1 day.

DISPOSITION: May 21, 1945. The defendant having entered a plea of nolo contendere, the court imposed a fine of \$500 on count 1. Sentence was suspended on count 2 for 2 years, and the defendant was placed on probation for a like period.

8086. Adulteration and misbranding of Pyridamide Tablets and Thiamin Chloride Solution. U. S. v. William S. McClymonds (Western Research Laboratories). Plea of nolo contendere. Fine, \$50. (F. D. C. No. 14231. Sample Nos. 30184-F, 36553-F, 68901-F.)

INFORMATION FILED: January 22, 1945, District of Colorado, against William S. McClymonds, trading as the Western Research Laboratories, Denver, Colo.

ALLEGED SHIPMENT: Between the approximate dates of November 18, 1943, and January 5, 1944, from the State of Colorado into the States of Washington, Wyoming, and Utah.

VIOLATIONS CHARGED: Pyridamide Tablets, adulteration, Section 402 (b) (1), valuable constituents had been in part omitted or abstracted from the article in that it was represented to contain in each tablet 3,000 International Units of vitamin B₁, equivalent to 9 milligrams of thiamine hydrochloride, 0.6 milligram of vitamin B₂, 600 International Units of vitamin C, equivalent to 30 milligrams of ascorbic acid, and 30 milligrams of nicotinamide, whereas each tablet of the article contained not more than 1,800 International Units of vitamin B₁, equivalent to not more than 5.4 milligrams of thiamine hydrochloride, not more than 0.25 milligram of vitamin B₂, not more than 19.5 International Units of vitamin C, equivalent to slightly less than 1.0 milligram of ascorbic acid, and not more than 3.8 milligrams of nicotinamide. Misbranding, Section 403 (a), the statements on the label of the article, "Each Tablet contains: Vitamin B₁ . . . 3000 International Units (Thiamin Hydrochloride 9. mg) Vitamin B₂ * * * (Riboflavin .6 mg.) * * * Vitamin C . . . 600 International Units (Ascorbic Acid, 30. mg.) Nicotinamide . . . 30. mg.," were false and misleading.

Thiamin Chloride Solution, adulteration, Section 402 (b) (1), a valuable constituent, thiamine chloride, had been in part omitted or abstracted from the article since a portion purported and was represented to contain 16,650 units of thiamine chloride (vitamin B₁) in each 30 cc., equivalent to 50 milligrams per cubic centimeter, whereas it contained not more than 13,586 units of thiamine chloride in each 30 cc., equivalent to not more than 40.8 milligrams of thiamine chloride per cubic centimeter; and the remainder was represented to contain 33,300 units of thiamine chloride in each 30 cc., equivalent to 100 milligrams per cubic centimeter, whereas it contained not more than 25,974 units of thiamine chloride in each 30 cc., equivalent to not more than 78 milligrams of thiamine chloride per cubic centimeter. Misbranding, Section 403 (a), the statements on the labels of the article, "30 cc Thiamin Chloride Vitamin B₁ (16,650 Units) (50 mgm. 1 cc) [or "(33,300 Units) (100 mgm. 1 cc)"]," were false and misleading.

The information also alleged that another product, Thiamin Chloride Tablets, was adulterated and misbranded under the provisions of the law applicable to drugs, as reported in the notices of judgment on drugs and devices.

DISPOSITION: February 3, 1945. The defendant having entered a plea of nolo contendere, the court imposed a fine of \$5 on each of the 10 counts of the information.

8087. Adulteration and misbranding of Mont-O-Min vitamin products and adulteration of Minavit No. 1. U. S. v. Frank E. Bucklin (F. E. Bucklin Co.). Plea of guilty. Fine, \$250. Nine months' jail sentence suspended and defendant placed on probation for 2 years. (F. D. C. No. 11428. Sample Nos. 36370-F, 36372-F to 36374-F, incl., 39764-F.)

INFORMATION FILED: October 13, 1944, Southern District of California, against Frank E. Bucklin, trading as the F. E. Bucklin Co.; charging the defendant with shipping various vitamin preparations from Los Angeles, Calif., to Albuquerque, N. Mex., between the approximate dates of November 18, 1942, and March 24, 1943; defendant also charged with the giving of a false guaranty to the Soltan Corporation, Los Angeles, Calif. The guaranty was given by the defendant on or about March 27, 1942, and provided that all articles furnished by the defendant to the latter firm, then or thereafter, would be neither adulterated nor misbranded. On or about July 6, 1943, the defendant sold and delivered to the Soltan Corporation a quantity of vitamin tablets which were adulterated. These were packaged by the Soltan Corporation and shipped by that firm from Los Angeles, Calif., to Tucson, Ariz., on or about August 2, 1943.

LABEL, IN PART: "Mont-O-Min Mont-O-Ad [or "Mont-O-Cee," "Mont-O-Min," or "Mont-O-Plex"] * * * Mfg. Exclusively for Montmorillonite Corp. Albuquerque New Mexico," or "Soltan Minavit No. 1 S. C. Yellow."

VIOLATIONS CHARGED: Misbranding of Mont-O-Ad, Section 403 (a), the label statement, "Each tablet provides: Vitamin A 1500 I. U., Vitamin D 150 I. U.," was misleading since each tablet of the article would not furnish the user with 1,500 International Units of vitamin A and 150 International Units of vitamin D, in that the article was subject to deterioration and its labeling failed to reveal the fact, material in the light of the label statement, that the article was an unstable source of vitamins A and D and would deteriorate and

lose vitamin potency. Further misbranding, Section 403 (a), the label statement, "Each Tablet Provides * * * iron 68 mg.," was false and misleading since each tablet of the article would provide not more than 1.9 milligrams of iron.

Adulteration of remaining products, Section 402 (b) (1), valuable constituents of the articles had been in part omitted, as follows: The Mont-O-Cee was represented to contain 68 milligrams of iron per tablet, but contained not more than 1.6 milligrams of iron per tablet; the Mont-O-Min was represented to contain 4.5 milligrams of iron per tablet, but contained not more than 2.5 milligrams of iron per tablet; the Mont-O-Plex was represented to contain $\frac{2}{3}$ milligram (666 gammas) of vitamin G (B_2) and 5 milligrams of iron per tablet, but contained not more than $\frac{1}{6}$ milligram (equivalent to not more than 167 gammas) of vitamin G (B_2) and not more than 1.8 milligrams of iron per tablet; and the Minavit No. 1 was represented to contain 365 gammas of iodine per tablet, but contained not more than 52 gammas of iodine per tablet.

DISPOSITION: November 20, 1944. A plea of guilty having been entered, the defendant was fined \$50 on each of 5 counts and sentenced to 9 months in jail. The jail sentence was suspended for 2 years on the condition that there be no further violation of the Food, Drug, and Cosmetic Act by the defendant.

8088. Misbranding of Galen vitamin preparations. U. S. v. Galen Co. Plea of nolo contendere. Fine, \$500. (F. D. C. No. 12561. Sample Nos. 64921-F to 64923-F.)

INFORMATION FILED: November 2, 1944, Northern District of California, against the Galen Co., a corporation, Berkeley, Calif.

ALLEGED SHIPMENT: On or about October 27, 1943, from the State of California into the State of Washington.

LABEL, IN PART: "Galen 'B' One Pint A Completely Soluble Concentrate of the Vitamin 'B' Complex Prepared From Rice Bran," and "Elixir Galen 'B' Fortified One Pint Elixir Vitamin B Complex."

VIOLATIONS CHARGED: Misbranding, Section 403 (j), the Galen "B" Concentrate purported to be and was represented for special dietary uses by man by reason of its vitamin content in respect of vitamin B_1 , riboflavin, vitamin B_6 , and pantothenic acid, but its label did not bear, as required by the regulations, (1) a statement of the proportion of the minimum daily requirements for vitamin B_1 and riboflavin which would be supplied by the product when consumed in a specified quantity during a period of 1 day, (2) a statement of the quantity of vitamin B_6 and pantothenic acid in a specified quantity of the product, and (3) a statement that the need in human nutrition for vitamin B_6 and pantothenic acid has not been established.

Misbranding, Section 403 (j), the Elixir Galen "B" purported to be and was represented for special dietary uses by man by reason of its vitamin properties in respect of vitamin B_1 and riboflavin, and by reason of its mineral properties in respect of iron and manganese, but its label did not bear, as required by the regulations, a statement of the proportion of the minimum daily requirements for vitamin B_1 , riboflavin, and iron which would be supplied by the product when consumed in a specified quantity during a period of 1 day, a statement of the quantity of manganese in a specified quantity of the product, or a statement that the need in human nutrition for manganese has not been established.

DISPOSITION: May 7, 1945. A plea of nolo contendere having been entered, the court imposed a fine of \$250 on each count, a total fine of \$500.

8089. Misbranding of Supplemental Concentrates Formula No. 4 and apple concentrate. U. S. v. Richard B. Summerhays (Dietary Research Laboratories). Plea of nolo contendere. Sentence suspended for 2 years. (F. D. C. No. 12578. Sample Nos. 53826-F, 53827-F.)

INFORMATION FILED: November 24, 1944, Southern District of California, against Richard B. Summerhays, trading as the Dietary Research Laboratories, Los Angeles, Calif.

ALLEGED SHIPMENT: On or about November 4 and 9, 1943, from the State of California into the State of Arizona.

PRODUCT: Analysis of the Supplemental Concentrates Formula No. 4 showed that the product consisted chiefly of vegetable matter including large amounts of alfalfa and wheat, a small amount of kelp, a trace of yeast, a probable trace of rhubarb root, and small amounts of other unidentified vegetable matter,

mixed with a small amount of proteinaceous matter. Analysis of the apple concentrate showed that the product was a concentrated apple juice (about five-fold) containing little, if any, chlorophyll.

LABEL, IN PART: "Supplemental Concentrates Formula No. 4 * * * Distributed by Arizona Clinic * * * Tucson, Arizona," or "Apple Concentrate (Malic Acid)."

VIOLATIONS CHARGED: Supplemental Concentrates Formula No. 4, misbranding, Section 403 (a), the label statement, "The materials for this tablet were selected for their properties of blood regeneration. A healthy blood stream is the first basic requirement of health," were false and misleading since the article would not regenerate the blood and would not establish a healthy blood stream; and, Section 403 (j), the article purported to be and was represented for special dietary uses by man by reason of its vitamin properties, but its label did not bear, as required by the regulations, (1) a statement of the proportion of the minimum daily requirements for vitamins A, B, D, and G which would be supplied by the product when consumed in a specified quantity during a period of 1 day, (2) a statement of the quantity of vitamin E supplied by a quantity of the article customarily or usually consumed during a period of 1 day, or (3) a statement that the need for vitamin E in human nutrition has not been established.

Apple concentrate, misbranding, Section 403 (a), the label statement, "Apple Concentrate (Malic Acid) Processed to retain the life factor of plant animation * * * Chlorophyll," was false and misleading since the article did not consist of malic acid, but consisted essentially of concentrated apple juice; the article had not been processed to retain the life factor of plant animation, since the product did not possess properties which would be of peculiar value in the life processes of man and which are not found in foods of like nature; the article contained little or no chlorophyll; and chlorophyll, if present, would have no nutritional value; and, Section 403 (j), the article purported to be and was represented for special dietary uses by reason of its vitamin and mineral properties, and its label failed to bear a statement of the proportion of the minimum daily requirements for those vitamins and minerals for which minimum daily requirements have been established which would be supplied by the article when consumed in a specified quantity during a period of 1 day; and its label failed to bear a statement of the quantity of those vitamins and minerals for which minimum daily requirements have not been established which would be supplied by the quantity of the article customarily or usually consumed during a period of 1 day.

DISPOSITION: January 27, 1945. A plea of nolo contendere having been entered, sentence was suspended for 2 years, conditioned that the defendant not violate any law of the United States.

8090. Misbranding of Supplemental Concentrates Formula No. 4 and Formulated Foods Formula No. 13. U. S. v. 94 Packages of Formula No. 4 and 52 Packages of Formula No. 13. Default decree of condemnation and destruction. (F. D. C. No. 11447. Sample Nos. 53826-F, 53828-F.)

LIBEL FILED: December 22, 1943, District of Arizona.

ALLEGED SHIPMENT: On or about November 9, 1943, by the Dietary Research Laboratories, Los Angeles, Calif.

PRODUCT: 94 packages of Formula No. 4 and 52 packages of Formula No. 13, at Tucson, Ariz. Examination disclosed that Formula No. 4 consisted essentially of alfalfa and wheat, with small amounts of other vegetable material and possibly animal tissue; and that Formula No. 13 consisted essentially of garlic and parsley.

LABEL, IN PART: "Supplemental Concentrates Formula No. 4 20 Vegetable Concentrates Combined with Raw Liver, Heart Muscle and Stomach Lining Vitamins A, B, D, E and G Present in their Natural Form," and "Formula No. 13 Garlic-Parsley."

VIOLATIONS CHARGED: Formula No. 4, misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by man by reason of its content of vitamins A, B, D, E, and G, and its label failed to bear, as required by the regulations, (1) a statement of the quantity of vitamins A, B, D, E, and G in a specified quantity of the article; (2) a statement of the proportion of the minimum daily requirement for vitamins A, B, D and G supplied by the article when consumed in a specific quantity during a

period of 1 day; and (3) a statement that the need for vitamin E in human nutrition has not been established.

Formula No. 13, misbranding, Section 403 (a), the statements in the labeling, "A Dietary Supplement in the presence of High Blood Pressure," and "A dietary supplement processed and formulated to provide an effective adjuvant to the regular or prescribed diet," were false and misleading since the article would not be effective in relieving high blood pressure and was not an adjuvant to the diet.

The articles were also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1329.

DISPOSITION: February 7, 1944. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

8091. Adulteration and misbranding of Vita-Pure B-Complex Vitamins. U. S. v. 672 Cartons of Vita-Pure B-Complex Vitamins. Default decree of forfeiture and destruction. (F. D. C. No. 11737. Sample No. 47858-F.)

LIBEL FILED: February 3, 1944, Western District of Arkansas.

ALLEGED SHIPMENT: On or about March 29, 1943, from Oklahoma City, Okla., by the Roisman Products Co.

PRODUCT: 672 cartons, each containing 10 tablets, of the above-named product at El Dorado, Ark. Examination disclosed that the article contained 358 micrograms of riboflavin and not more than 166 U. S. P. units of thiamine chloride (B₁) per tablet.

VIOLATIONS CHARGED: Adulteration, Section 402(b)(1), the article was 50 percent deficient in vitamin B₁ and 28 percent deficient in riboflavin, which constituents had been in whole or in part omitted or abstracted from it.

Misbranding, Section 403(a), the statements in the labeling, "Each tablet contains: Vitamin B₁ (Thiamine Chloride) 333 U. S. P. Units Vitamin B₂ (g) Riboflavin 500 Micrograms," and "1 tablet per day affords the average minimum requirements of adult persons," were false since the article did not contain the vitamin B₁ and riboflavin content stated, nor would one tablet a day afford the average minimum requirements of adult persons with respect to these two vitamins; and, Section 403 (j), the article purported to be a food for special dietary uses by reason of its vitamin content, and its label failed to bear such information concerning its vitamin properties as has been prescribed by regulations as necessary in order fully to inform purchasers as to its value for such uses, since such information appeared in a circular contained in the carton but did not appear on the label.

Further misbranding, Section 403 (a), the following statements in the labeling were false and misleading since the article would not effect the results suggested or implied: (Display cards) "Symptoms Which May Develop From Vitamin B Complex Deficiency Nervousness Loss of Appetite Skin Disorders Weakness Neuritis Constipation Fatigue Faulty Memory B-Complex Vitamins 1 tablet per day affords the average minimum requirements of adult persons"; (inserts contained in retail package) "When Vitamin B Complex is not supplied in adequate amounts the following are among the symptoms which may develop: Loss of Appetite Skin Disorders Mental Depression Nutritional Anemia Faulty Memory Nervousness Constipation Weakness Fatigue Neuritis The daily intake of Vita-Pure B Complex Vitamins entirely prevents and corrects these deficiency symptoms when due to the lack of Vitamin B Complex Vita-Pure Vitamins Help Keep You Feeling Fit No Need to Ration Your Health."

The article was also alleged to be misbranded under the provisions of the law applicable to drugs as reported in the notices of judgment on drugs and devices, No. 1283.

DISPOSITION: April 17, 1944. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

8092. Adulteration and misbranding of B-Iron Vitamin B₁ Tablets. U. S. v. 23 Bottles of Vitamin B₁ Tablets. Default decree of forfeiture. Product ordered relabeled and delivered to a charitable institution. (F. D. C. No. 14373. Sample No. 61585-F.)

LIBEL FILED: November 6, 1944, Western District of Texas.

ALLEGED SHIPMENT: On or about June 30, 1944, by Irwin, Neisler and Co., Decatur, Ill.

PRODUCT: 23 bottles, each containing 100 tablets, of vitamin B₁ at San Antonio, Tex. Examination of a sample showed that the article contained 800 International Units of vitamin B₁ per tablet.

LABEL, IN PART: "B-Iron Each tablet contains Vitamin B₁ 1000 Int. Units."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B₁, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statements, "Each tablet contains Vitamin B₁ 1000 Int. Units * * * 1 tablet furnishes 1/2 the minimum daily requirement of * * * Vitamin B₁," were false since the product would furnish a smaller amount of vitamin B₁.

DISPOSITION: February 21, 1945. No claimant having appeared, judgment was entered forfeiting the product and ordering its delivery to a charitable institution, after the labels had been corrected.

8093. Adulteration and misbranding of Vitiliver. U. S. 44 Boxes of Vitiliver. Product ordered destroyed. (F. D. C. No. 13843. Sample No. 63910-F.)

LIBEL FILED: October 6, 1944, Southern District of Florida.

ALLEGED SHIPMENT: Between on or about March 3 and July 17, 1944, by the Myron L. Walker Co., Inc., from Mount Vernon, N. Y.

PRODUCT: 44 boxes, each containing 50 capsules of Vitiliver, at Miami, Fla.

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), valuable constituents, vitamin B₁ and riboflavin, had been in whole or in part omitted or abstracted from the product.

Misbranding, Section 403 (a), the statements on the label, "in each capsule * * * Vitamin B₁ (Thiamin 0.3 Mg.) 100 Int. Units Vitamin B₂ (Natural) 10 Sher. Bourq. Units," were false since the product contained a lesser amount of vitamins; and, Section (403) (j), the product purported to be and was represented as a food for special dietary uses by reason of its content of vitamin B₁, vitamin B₂, vitamin C, vitamin B₆, and other B-complex factors, and its iron content, and its label failed to bear such information concerning its vitamin and iron properties as has been determined to be and by regulation prescribed as necessary in order fully to inform purchasers as to its value for such uses, since its label failed to bear, as the regulations require, a statement of the proportion of the minimum daily requirements of vitamin B₁, vitamin B₂ (riboflavin), vitamin C, and iron, and the amounts of vitamin B₆ and other B-complex factors furnished by a specified quantity of the product when consumed during a period of 1 day; and, since the need in human nutrition for vitamin B₆ and other B-complex factors has not been established, its label failed to bear, as the regulations require, a statement that the need for vitamin B₆ and other B-complex factors in human nutrition has not been established.

DISPOSITION: November 30, 1944. No claimant having appeared, the product was ordered destroyed.

8094. Misbranding of a A. D. S. Calcium Pantothenate Tablets. U. S. v. 38 7/12 Dozen Bottles and 21 8/12 Dozen Bottles of Calcium Pantothenate Tablets. Decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 11738. Sample Nos. 29985-F, 29986-F.)

LIBEL FILED: February 5, 1944, Northern District of California.

ALLEGED SHIPMENT: Between the approximate dates of October 14, 1942, and February 16, 1943, by the American Druggists Syndicate, Inc., from Long Island City, N. Y.

PRODUCT: 38 7/12 dozen bottles, each containing 60 tablets, and 21 8/12 dozen bottles, each containing 120 tablets, of calcium pantothenate at San Francisco, Calif.

LABEL, IN PART: "A. D. S. American Druggists Syndicate Calcium Pantothenate Tablets * * * Active ingredient in each tablet: Calcium Pantothenate 10 Mg."

VIOLATION CHARGED: Misbranding, Section 403 (a), the following statements in the labeling of the article were false and misleading since they represented and suggested that the article would be effective in preventing the graying of hair or restoring the natural color to gray hair, whereas the article would not be of value for such purposes: (Display cards) "Turning Gray? You Need Vitamin Calcium Pantothenate 'Turning gray' is a slow process, but

now you can, in 4 out of 5 cases, assist the hair 'turning back' to its natural color by taking A. D. S. Calcium Pantothenate. Calcium Pantothenate Tablets are not dye, but the Vitamin Tablets that were used in vitamin deficiency clinical tests when it was shown that normal hair coloring was restored successfully after treatment over a period of months. We cannot in all cases, guarantee that A. D. S. Calcium Pantothenate Tablets will work wonders overnight. It took months for your hair to turn gray, but encouraging results may be shown in a few weeks. Start taking Calcium Pantothenate today . . . costs only a few cents a day . . . watch roots of the hair for results."

DISPOSITION: April 15, 1944. Emil A. Freitel having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

8095. Misbranding of Earp Minerals. U. S. v. 18 Bottles and 3 Bottles of Earp Minerals. Default decree of condemnation and destruction. (F. D. C. No. 14081. Sample No. 82867-F.)

LIBEL FILED: October 27, 1944, Southern District of New York.

ALLEGED SHIPMENT: On or about August 4, 1944, by Earp Laboratories, Bloomfield, N. J.

PRODUCT: 18 16-ounce bottles and 3 4-ounce bottles of Earp Minerals at New York, N. Y. Examination showed that the article contained small quantities of chemical salts, providing approximately 0.02 milligram of iron and 65.3 milligrams of phosphorus per fluid ounce, and no, or insignificant amounts of, calcium and iodine. It also contained traces of copper, sodium, and other mineral elements.

LABEL, IN PART: "Earp Minerals For Increasing Mineral Nutrition."

VIOLATION CHARGED: Misbranding, Section 403 (a), the statements on the label, "For Increasing Mineral Nutrition Contains: Potassium, Sodium, Magnesium, Phosphorus, Iron and Copper. * * * Normal Dose: Half teaspoonful in half glass of water * * * or according to physician's directions. Never Take Undiluted," were false and misleading since the product supplied no significant amounts of minerals that are of nutritional importance.

DISPOSITION: December 11, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8096. Adulteration and misbranding of Buffington's Vitonin Vitamin Tonic. U. S. v. 33 Bottles of Buffington's Vitonin Vitamin Tonic. Default decree of condemnation and destruction. (F. D. C. No. 14042. Sample No. 88173-F.)

LIBEL FILED: October 16, 1944, District of Maine.

ALLEGED SHIPMENT: On or about August 8, 1944, by Buffington's, Inc., from Worcester, Mass.

PRODUCT: 33 8-ounce bottles of Vitonin Vitamin Tonic at Portland, Maine. This product was 25 percent deficient in vitamin B₁ (thiamine chloride).

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B₁ (thiamine chloride), had been in part omitted from the article.

Misbranding, Section 403 (a), the statements on the label, "Each fluid ounce represents * * * vitamin B₁ (Thiamin Chloride) 2500 Int'l Units * * * The recommended dose supplies approximately 8 times the minimum daily requirement of B₁," were false and misleading since the article contained in each fluid ounce less than 2,500 International Units of vitamin B₁, and supplied in the recommended dose less than 8 times the minimum daily requirement of vitamin B₁.

DISPOSITION: November 22, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8097. Misbranding of grape juice and pomegranate juice. U. S. v. 28 Dozen Quarts and 100 Dozen Pints of Assorted Grape Juice and Pomegranate Juice. Consent decree of condemnation. Products ordered released under bond. (F. D. C. No. 11544. Sample Nos. 55526-F, 55527-F.)

LIBEL FILED: January 19, 1944, Western District of Washington.

ALLEGED SHIPMENT: On or about November 17, 1943, from Los Angeles, Calif, by Empire Freight.

PRODUCT: 28 dozen quarts and 100 dozen pints of assorted grape juice and pomegranate juice, at Seattle, Wash. Examination of samples indicated that the articles consisted of white grape juice and pomegranate juice.

LABEL, IN PART: "Queen Isabella Brand * * * Utt Juice Company, Tustin, Calif."

VIOLATION CHARGED: Misbranding, Section 403 (a), the statement on the labels of the articles, "Fruit Juices are especially high in vital blood minerals and organic acids necessary to correct and maintain normal blood alkalinity and food assimilation," was false and misleading since the articles were not especially high in vital blood minerals and organic acids necessary to correct and maintain normal blood alkalinity and food assimilation.

The articles were also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1281.

DISPOSITION: February 11, 1944. A. Magnano & Sons, Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the products were ordered released under bond to be brought into compliance with the law.

8098. Adulteration and misbranding of Brewer Vitamin Capsules. U. S. v. 97 Boxes and 104 Boxes of Vitamin Capsules. Decree of condemnation and destruction. (F. D. C. No. 6092. Sample No. 75735-E.)

LIBEL FILED: October 27, 1941, in the District of Maine.

ALLEGED SHIPMENT: On or about April 16, 1941, by Brewer & Co., Inc., from Worcester, Mass.

PRODUCT: 97 boxes, each containing 100 capsules, and 104 boxes, each containing 50 capsules, of vitamins at Waterville, Maine. A vitamin assay of a sample disclosed that the article contained not more than 700 U. S. P. units of vitamin D per capsule.

LABEL, IN PART: "Brewer Vitamin Concentrate Capsules Containing Vitamins A-B-D-G."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the statement on the label, "Vitamin D 1,000 units U. S. P. XI," was false since the article did not contain 1,000 units of vitamin D per capsule but contained less than that amount; and the conspicuous declaration on the main display panel, "Containing vitamins * * * G" was misleading in view of the fact that the article, when taken according to the directions, "Average daily Dose 1 to 3 capsules," would furnish not more than 8 percent of the minimum daily requirement for vitamin G.

The article was also alleged to be adulterated and misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

DISPOSITION: February 2, 1945. The sole intervener having withdrawn its claim and answer, judgment of condemnation was entered and the product was ordered destroyed.

8099. Misbranding of Tastex (vitamin preparation). U. S. v. 342 Jars of Tastex Pure Vegetable Extract. Default decree of condemnation and destruction. (F. D. C. No. 13294. Sample No. 78727-F.)

LIBEL FILED: August 31, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: April 24 and June 9, 1944, by Special Foods, Inc., from Worthington, Ohio.

PRODUCT: 29 18-ounce jars, 36 11-ounce jars, 126 5½-ounce jars, and 151 2¾-ounce jars of Tastex at Chicago, Ill.

LABEL, IN PART: "Tastex Contains the Complete Vitamin B Complex Contains Brewer's Yeast Extract, Pure Vegetable Extract, Salt and Added Iron Salt."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the label statement, "Each gram of Tastex contains approximately: 60 International units of Vitamin B-1," was false and misleading as applied to a product which contained a smaller amount; and, Section 403 (j), the product purported to be and was represented as a food for special dietary uses, and its label failed to bear, as the regulations require, (1) the names of the specific vitamins of the B-complex other than vitamins B₁ and B₂, (2) a statement of the proportion of the minimum daily requirements of vitamins B₁ and B₂ and iron, and (3) the quantities of the vitamins of the B-complex other than vitamins B₁ and B₂ furnished by a specified quantity of the product when consumed during a period of 1 day.

DISPOSITION: November 13, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

S100. Misbranding of Mineralized Vitamin Tablets. U. S. v. S11,000 Vitamin and Mineral Tablets. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 13625. Sample No. 82255-F.)

LIBEL FILED: On or about September 27, 1944, Southern District of New York.

ALLEGED SHIPMENT: Between the approximate dates of June 14 and July 6, 1944, by the Ivers-Lee Co., Newark, N. Y.

PRODUCT: S11,000 vitamin and mineral tablets at Mount Vernon, N. Y.

LABEL, IN PART: "Mineralized Vitamin."

VIOLATIONS CHARGED: Misbranding, Section 403 (j), the product purported to be and was represented as a food for special dietary uses by reason of its vitamin A, B₁, B₂, B₆, C, D, calcium pantothenate, niacinamide, iron, calcium, phosphorus, magnesium, manganese, and zinc content, and its label failed to bear the information concerning its vitamin and mineral properties as has been determined to be and by regulations prescribed as necessary in order fully to inform purchasers as to its value for such uses, since its label failed to bear, as the regulations require, a statement of the proportion of the minimum daily requirements of vitamin A, B₁, B₂, C, D, iron, calcium, and phosphorus, and the amounts of vitamin B₆, calcium pantothenate, niacinamide, magnesium, manganese, and zinc furnished by a specified quantity of the product when consumed during a period of 1 day; and, since the need in human nutrition for vitamin B₆, calcium pantothenate, niacinamide, magnesium, manganese, and zinc has not been established, its label failed to bear, as the regulations require, the statement "the need for vitamin B₆, calcium pantothenate, niacinamide, magnesium, manganese, and zinc in human nutrition has not been established"; and, Section 403 (i) (2), it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each ingredient.

DISPOSITION: November 30, 1944. The Walker Vitamin Products, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for labeling with the usual package label and reprocessing, under the supervision of the Food and Drug Administration, so that the tablets would disintegrate within the human system within a period of 2 hours or less.

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¹ (7926) Prosecution contested. Contains instructions to the jury.
² (8084) Prosecution contested.
³ (8001) Permanent injunction issued. Contains findings of fact and conclusions of law.

⁴ (7995) Seizure contested.
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Beatrice Creamery Co.:		Minavit No. 1-----	8087
butter-----	8007	Bucklin, F. E., Co. <i>See</i> Bucklin, F. E.	
Beaty Grocery Co.:		Buffington's, Inc.:	
butter-----	8004	Buffington's Vitonin Vitamin	
		Tonic-----	8096
		Butterfield Canning Co.:	
		tomato puree-----	8058

² (8084) Prosecution contested.³ (8001) Permanent injunction issued. Contains findings of fact and conclusions of law.⁵ (8029) Seizure contested. Contains findings of fact and conclusions of law.

	N. J. No.		N. J. No.
California Packing Corp.:		Fisher Baking Co.:	
raisins-----	8045	bread and rolls-----	7943
Camp, R. E.:		Flotill Products, Inc.:	
mayonnaise-----	8074	canned apricots-----	8038
Camp Sandwich Co. <i>See</i> Camp, R. E.		Food Products Co. (division of Vic-	
Capitol Macaroni Manufacturing Co.:		tory Extract Manufacturing Co.)	
alimentary paste-----	7930	sirup-----	7998
Carlston Candy Co.:		Fox Inter-Mountain Amusement	
candy-----	7989	Corp.:	
Center Milk Products Co.:		candy-----	7991
dried skim milk-----	8015	Fresno Home Packing Co.:	
Central Soya Co., Inc.:		fig paste-----	8041
soy flour-----	7972	Funsten, R. E., Co.:	
Certo, Antonio:		shelled pecan pieces-----	8072
edible oil-----	8075	Galen Co.:	
Charles, Charlotte:		Galen vitamin preparations-----	8088
candy-----	7993	Gem Packing Corp.:	
Cherokee Products Co.:		edible oil-----	8077
peanut butter-----	8070	General Mills, Inc.:	
Chesman, Charles:		whole wheat flour and plain flour--	7974
blue cheese-----	8010	Gibbs & Co., Inc.:	
Chesso Cheese Co. <i>See</i> Chesman,		canned oysters-----	⁵ 8029
Charles.		Glaviano, Dominick:	
Chung Wah Noodle Manufacturing		alimentary paste-----	7930
Co. <i>See</i> Lee, H. G.		Goss, J. A.:	
Clinton Pure Butter Co.:		flour-----	7958
butter-----	8003	Green Garden Food Products. <i>See</i>	
Colorado Milling and Elevator Co.:		Morin, H. T.	
wheat bran-----	7984	Griffin, B. A.:	
Columbus Milling Co. <i>See</i> Sohn, H.		canned mackerel-----	8025
H.		Griffin, B. A., Co., Inc. <i>See</i> Griffin,	
Commercial Creamery Co.:		B. A.	
peanut butter-----	8064	Gum Products, Inc.:	
Commonwealth Brewing Corp.:		chewing gum-----	8080
beer and ale----- ¹ 7926,	7927	Hallren, Mike:	
Covington Brothers & Co.:		butter-----	8008
salted mackerel-----	8026	Hallren Poultry & Creamery Co. <i>See</i>	
Covington Brothers & Co. of Mayfield,		Hallren, Mike.	
Inc. <i>See</i> Covington Brothers &		Hamilton, H. A.:	
Co.		butter-----	8002
Crete Mills:		Harris, J. E.:	
pancake flour, pancake and waffle		candy-----	7987
flour, and plain flour-----	7966	Harris Candy Co. <i>See</i> Harris, J. E.	
Cuban American Products Co., Inc.:		Haslett Warehouse Co.:	
candy-----	7992	cereal binder-----	7979
Daitch, L., & Co., Inc.:		starch-----	7983
butter-----	8006	Higginsville Flour Mill:	
Decatur Milling Co., Inc.:		enriched phosphated flour-----	7978
corn flour-----	7964	Holterhoff, E. F., and J. J.:	
Denison Peanut Co.:		cake-----	7950
peanut butter-----	8065	Howard Terminal Warehouse Co.:	
Dietary Research Laboratories:		brussels sprouts-----	8047
apple concentrate-----	8089	Humboldt Warehouse:	
Formulated Foods Formula No. 13--	8090	cereal binder-----	7979
Supplemental Concentrates For-	8089, 8090	Hunt Bros. Packing Co.:	
mula No. 4-----		canned fruit cocktail-----	8042
Dillon Candy Co., Inc.:		Interstate Bakeries Corp.:	
peanut butter-----	8071	bread-----	7941
Domino Macaroni Co.:		Irwin, Neisler & Co.:	
alimentary pastes-----	7931	B-Iron Vitamin B ₁ Tablets-----	8092
Drew Canning Co.:		Ivers-Lee Co.:	
canned apricots-----	8039	Mineralized Vitamin Tablets-----	8100
Earp Laboratories:		K & K Evaporated Apple Packing	
Earp Minerals-----	8095	Corp.:	
Eavey Co.:		dried apple chops-----	8035
canned peas-----	8049	Kansas City Macaroni & Importing	
Edgerton Cooperative Creamery:		Co.:	
butter-----	8009	alimentary paste-----	7929
Edison Produce Co.:		Kaufman, Leo.:	
potatoes-----	8051	beer and ale----- ¹ 7926	
Ehrat Cheese Co.:		Keystone Grocery Distributing Co.:	
Italian cheese, grated-----	8012	<i>See</i> Certo, Antonio.	
Eldorado Creamery Co.:		Keystone Storage Co.:	
butter-----	8002	canned salmon-----	8027
Empire Freight:		Kittelberger, G.:	
grape juice and pomegranate juice--	8097	apple chops-----	8034
Epstein, S. I.:		Kohman, H. A.:	
candy-----	7985	salt rising yeast-----	8083
Farmers Cooperative Creamery Co.:		Kokomo Packing Co.:	
butter-----	8005	sweet relish-----	8055
Federated Foods, Inc.:		Krause, O. J.:	
tomato juice-----	8056	fresh tomatoes-----	8057
Ferguson, R. W.:			
potatoes-----	8051		
Feuchtenberger Bakeries, Inc.:			
cake and bread-----	7949		

¹(7926) Prosecution contested. Contains instructions to the jury.

⁵(8029) Seizure contested. Contains findings of fact and conclusions of law.

	N. J. No.		N. J. No.
Kuehn, O. L.:		Nicholson, V. E.:	
frozen shrimp-----	8031	sorghum sirup-----	7997
Kurtz Brothers:		Nielsen, M. M.:	
noodles-----	7933	butter-----	8003
Landsberger, J. E.:		Noble, Utley:	
butter-----	8006	Mor-Milk for Pigs and Hogs, and	
Landsberger Creamery & Produce Co.		Mor-Milk for Calves-----	8019
<i>See</i> Landsberger, J. E.		Nolte Baking Co.:	
Langlois, P. L.:		bread-----	7935
candy-----	7994	O'Donnell, A. B.:	
Larabee Mills:		rice bran-----	8020
gluten flour and plain flour-----	7965	Old Home Bakers:	
Lawrenceburg Roller Mills Division,		bread-----	7947
Acme-Evans Co.:		Opera Chocolate Co., Inc.:	
plain flour and self-rising flour-----	7970	candy-----	7985
Lee, H. G.:		Palmer, E. C., W. B., Jr., and W. E.:	
noodles-----	7932	candy-----	7986
Lesseg, W. A.:		Palmer Candy Co.:	
apples-----	8033	candy-----	7986
Lewis, V. R.:		Pappas Pie & Baking Co.:	
bread-----	7939	pies-----	7952
Log Cabin Bread Co.:		Park & Pollard Co., Inc.:	
bread-----	7941	Munchy Dog Food-----	8023
Lucatelli Packing Co.:		Peanut Products Co.:	
edible oil-----	8076	peanut butter-----	8067
Lysle, J. C., Milling Co.:		Pelican Rice Mill. <i>See</i> O'Donnell, A.	
enriched flour-----	7975	B.	
McAfee, C. O.:		Phillips Packing Co., Inc.:	
candy-----	7988	canned beans with pork and tomato	
McAfee Candy Co. <i>See</i> McAfee, C. O.		sauce-----	8046
McClymonds, W. S.:		Phillips Sales Co., Inc.:	
Pyridamide Tablets, and Thiamin		tomato soup-----	8061
Chloride Solution-----	8086	Pioneer Baking Co., Inc.:	
McDonald, Inez:		bread-----	7947
blackberry jam-----	8044	Ponca City Milling Co., Inc.:	
Mactavish Preserves Co., Inc.:		flour-----	7960
strawberry jam and red raspberry		Premier Color Works:	
jam-----	8043	green color-----	8081
Manhattan Distributing Co.:		Public Quick Freezing & Cold Storage	
beer and ale-----	7927	Co.:	
Maritime Milling Co.:		frozen shrimp-----	8032
Hunt Club Dog Food-----	8024	Purity Bread Co.:	
Masters Pie Bakery. <i>See</i> Sorpas,		bread and cake-----	7942
Tom.		Quality Incorporated:	
Matanzas Packing Co.:		sirup-----	8000
frozen shrimp-----	8032	Rainier Packing Co.:	
Mavar Shrimp and Oyster Co.:		peanut butter-----	8069
canned oysters-----	⁵ 8029	Randolph Milling Co.:	
Mennel Milling Co.:		self-rising flour-----	7971
wheat bran-----	7984	Raspanti, Rosario:	
Menzer, William, Inc.:		tomato sauce-----	8060
butter-----	8005	Red Top Milk Co.:	
Mercury Candy Co.:		dried skim milk-----	8016
candy-----	7994	Red Star Milling Co. of General Mills,	
Mi-Oun Cake Co.:		Inc.:	
cake-----	7950	whole wheat flour-----	7974
Michael-Swanson-Brady Produce Co.:		Reedsburg Foods Corp.:	
potatoes-----	8052	canned peas-----	8049
Mid-Kansas Milling Co.:		Republic Rice Mill, Inc.:	
enriched self-rising flour-----	7976	rice-----	7980
Midland Produce Co.:		Riverview Mills Co.:	
fresh tomatoes-----	8057	flour-----	7961
Midwest Bakery & Macaroni Co.:		Roanoke Public Warehouse:	
bread-----	7944	starch-----	7982
Miller Fruit Co., Inc.:		Robertson Peanut Co.:	
potatoes-----	8053	peanut butter-----	8066
Mississippi Shipping Line:		Roisman Products Co.:	
candy-----	7992	Vita-Pure B-Complex Vitamins---	8091
Modern Marketing Service, Inc.:		Roma Bakery:	
canned apricots-----	8036	bread-----	7944
Moffett, S. A.:		Rose City Roller Mills:	
frozen cherries-----	8040	corn meal-----	7957
Moffett, S. A., Co.:		Rose Warehouse Co.:	
cherries, frozen-----	8040	dextrose-----	7996
peas, frozen-----	8050	Royal Milling Co.:	
Montmorillonite Corp.:		whole wheat flour-----	7973
Mont-O-Min Vitamin Products-----	8087	Rubin, H. M., Co.:	
Mor-Milk Co. <i>See</i> Noble, Utley.		meat bone scrap-----	8018
Morin, H. T.:		Safeway Stores, Inc.:	
salad dressing-----	8078	bread-----	7936-7938
National Biscuit Co.:		St. Louis Terminal Warehouse No. 3:	
cookies and crackers-----	7951	chocolate coating-----	⁴ 7995
National Fruit Products, Inc.:		Schafer Distributing Co.:	
tomato juice-----	8056	beer-----	7927
New Era Mills:			
enriched flour-----	7975		

⁴(7995) Seizure contested.⁵(8029) Seizure contested. Contains findings of fact and conclusions of law.

	N. J. No.		N. J. No.
Scherzer, Fred:		Three Brothers Baking Co.:	
fresh tomatoes-----	8057	bread-----	7946
Scott County Milling Co.:		Toby's Food Products Packing Co.:	
corn meal-----	7955	shelled almonds and shelled pecans	8062
Seelye, F. H.:		Tremaine Alfalfa Milling Co. <i>See</i>	
mayonnaise-----	8074	Western Milling Co.	
Ser Baking Co.:		Tuell Dairy Co.:	
zwieback and rye hardtack-----	7954	Cheddar cheese-----	8011
Sessions Co., Inc.:		Uddo & Taormina Co.:	
peanut butter-----	8067	tomato sauce-----	8060
Shaw, H. W.:		United States Cold Storage Co.:	
crab meat-----	8028	frozen shrimp-----	8031
Smith, Disney:		Utt Juice Co.:	
butter-----	8008	grape juice and pomegranate juice--	8097
Smith Canning Co.:		Valier & Spies Milling Co.:	
tomato puree-----	8059	flour-----	7963
Sohn, H. H.:		Victory Extract Manufacturing Co.:	
corn meal-----	7956	sirup-----	7998
Sorpas, Tom:		Walker, Myron L., Co., Inc.:	
pies and cakes-----	7953	Vitoliver-----	8093
South Quay Peanut Co.:		Wayne County Farm Bureau Produce	
peanuts-----	8063	Assoc.:	
Southern Baking Corporation:		butter-----	8002
cake and bread-----	7948	Weinmann, J. F. Milling Co.:	
Southern Crab Co. <i>See</i> Shaw, H. W.		corn meal-----	7957
Southern Edible Products Co.:		West, R. E.:	
pecan pieces-----	8073	canned mushrooms-----	8048
Special Foods, Inc.:		West Mushroom Co. <i>See</i> West, R. E.	
Tastex (vitamin preparation)-----	8099	Western Fisheries Co.:	
Spengler's Bakery Co.:		canned salmon-----	8027
bread and rolls-----	7945	Western Milling Co.:	
Spudette Co.:		alfalfa meal-----	8022
fried shoestring potatoes-----	8054	Western Research Laboratories. <i>See</i>	
Stiefvaters:		McClymonds, W. S.	
rye meal-----	7981	Western Star Mill Co.:	
Stokely Bros. & Co., Inc.:		enriched self-rising flour-----	7977
canned apricots-----	8037	Western Union Macaroni Products	
Summerhays, R. B.:		Co.:	
Supplemental Concentrates Formu-		alimentary paste-----	7929
la No. 4, and apple concentrate--	8089	Westfeldt Bros.:	
Sunshine Packing Corp.:		candy-----	7992
strawberry juice-----	7928	White Water Flour Mills Co.:	
Swift & Co.:		plain flour and self-rising flour----	7969
butter-----	³ 8001	Wichita Flour Mills Co.:	
Tasty Foods Co.:		flour-----	7959
salad dressing-----	8079	Wyatt, J. W., and Co.:	
Texas Peanut Products Co.:		flour-----	7962
peanut butter-----	8068	Wyler & Co.:	
Thompson, W. T.:		ravioli dinner-----	7934
Bragg Mira-Cal Tablets and Royce's		Yukon Mill and Grain Co.:	
Vitamin A and D Tablets-----	² 8084	self-rising flour and phosphated	
Thompson, Wm. T., Co. <i>See</i> Thomp-		flour-----	7968
son, W. T.		Zion's Cooperative Mercantile Insti-	
		tution:	
		tomato puree-----	8059
		Zion's Wholesale Grocery. <i>See</i> Zion's	
		Cooperative Mercantile Institu-	
		tion.	

²(8084) Prosecution contested.

³(8001) Permanent injunction issued.

Contains findings of fact and conclusions of law.



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U. S. DEPARTMENT OF AGRICULTURE

FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG,
AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

8101-8300

FOODS

The cases reported herewith were instituted in the United States District Courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

MAURICE COLLINS, *Acting Administrator, Federal Security Agency.*

WASHINGTON, D. C., *January 7, 1946.*

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BEVERAGES AND BEVERAGE MATERIALS

8101. Misbranding of clarifying agent. U. S. v. 2 Barrels of Clarifying Agent.
Default decree of destruction. (F. D. C. No. 15975. Sample No. 18231-H.)

LIBEL FILED: April 28, 1945, District of Minnesota.

ALLEGED SHIPMENT: On or about March 12, 1945, by the Esterex Co., from Chicago, Ill.

PRODUCT: 2 32-gallon barrels of clarifying agent at Red Wing, Minn. Analysis showed that the article was a water solution containing about 30 percent of monochloracetic acid.

LABEL, IN PART: "Schoenen Clarifying Agent."

VIOLATION CHARGED: Misbranding, Section 403 (a), the words "Clarifying Agent" were misleading since they represented that the article was wholesome and suitable for use as a component of beverages for man, whereas it contained about 30 percent of monochloracetic acid, a poisonous and deleterious substance which rendered the article unwholesome and unsuitable for use as a component of beverages for man.

DISPOSITION: June 13, 1945. No claimant having appeared, judgment was entered ordering that the product be destroyed.

8102. Adulteration of unroasted coffee. U. S. v. 21 Bags of Unroasted Coffee. Default decree of condemnation and destruction. (F. D. C. No. 15952. Sample No. 13242-H.)

LIBEL FILED: April 23, 1945, Southern District of Ohio.

ALLEGED SHIPMENT: On or about March 17, 1945, by the Leon Israel Brothers, Lighterage, N. Y.

PRODUCT: 21 bags of unroasted coffee at Cincinnati, Ohio.

LABEL, IN PART: Santos Cafe Do Brasil Estado DeSa'O Paulo."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and moldy substance by reason of the presence of insect-infested and moldy coffee beans.

DISPOSITION: May 31, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8103. Adulteration and misbranding of fruit-flavored beverage bases. U. S. v. 78 Cases of Beverage Bases. Default decree of condemnation. Products ordered delivered to charitable institutions. (F. D. C. No. 16062. Sample Nos. 26633-H to 26640-H, incl.)

LIBEL FILED: On or about May 10, 1945, District of Colorado.

ALLEGED SHIPMENT: On or about November 10, 1944, by Holler's Concentrated Beverages, from Miami, Fla.

PRODUCT: 78 cases, each containing 48 bottles, of beverage bases of various flavors at Denver, Colo. Analysis showed that the grape-, strawberry-, cherry-, loganberry-, raspberry-, and punch-flavored products were artificially flavored and colored solutions of water and acid or acids; and that the orange- and lime-flavored products were artificially colored emulsions of water, acid, sugar, citrus peel oil, brominated vegetable oil, and vegetable gum. A portion of the products also contained phosphoric acid that was not declared on the labels.

LABEL, IN PART: "Holler's Grape [or "Strawberry," "Cherry," "Orange," "Loganberry," "Lime," "Raspberry," or "Punch"] Flavored Concentrate."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (4), artificial coloring, in all instances, and artificial flavoring, in some instances, had been added to the products or mixed or packed with them, so as to make them appear better or of greater value than they were.

Misbranding, Section 403 (a), the designs of fruits on the case labels and the statements on the respective bottle labels, "Grape [or "Strawberry," "Cherry," "Orange," "Loganberry," "Lime," "Raspberry," or "Punch"] Flavored Concentrate," were misleading; and the statement on the bottle labels, "Holler's flavors make delicious Jellies, Jams," was misleading since the products would not make jellies or jams.

Further misbranding, Section 403 (i) (2), the labels on the loganberry- and punch-flavored products failed to bear the common or usual name of each ingredient.

DISPOSITION: On or about August 3, 1945, no claimant having appeared, judgment of condemnation was entered and the products were ordered distributed to charitable institutions.

8104. Adulteration of fruit-flavored sirups. U. S. v. 150 Cases of Raspberry-, Cherry-, and Orange-Flavored Sirups. Default decree of condemnation and destruction. (F. D. C. No. 16442. Sample Nos. 10085-H to 10087-H, incl.)

LIBEL FILED: June 16, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about April 24, 1945, by the Sol Lenzner Corporation, from Buffalo, N. Y.

PRODUCT: 50 cases each of raspberry-, cherry-, and orange-flavored sirups, each case containing 12 1-pint bottles, at Pittsburgh, Pa. These products contained saccharin in place of some of the sugar which would normally be used.

LABEL, IN PART: "True Fruit and Imitation Raspberry [or "Cherry," or "Orange"] Flavor 32° Baume Cane and Dextrose Syrup."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, sugar, had been in part omitted from the products; Section 402 (b) (2), flavoring sirups containing saccharin had been substituted in whole or in part for flavoring sirups containing cane and dextrose sirup, which the products were represented to be; and, Section 402 (b) (4), saccharin, a substance having no food value, had been added to and mixed and packed with the products so as to reduce their quality or strength.

DISPOSITION: August 14, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

8105. Misbranding of canned grapefruit juice. U. S. v. 1,497 Cases of Canned Grapefruit Juice. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16250. Sample No. 9604-H.)

LIBEL FILED: May 28, 1945, Western District of New York.

ALLEGED SHIPMENT: On or about April 19, 1945, by the E. S. Smith Co., from Lakeland, Fla.

PRODUCT: 1,497 cases, each containing 12 cans, of grapefruit juice at Buffalo, N. Y. The cans were short-volume.

LABEL, IN PART: "Zenada Brand Unsweetened Grapefruit Juice Contents 1 Qt. 14 Fl. Oz. Packed by F & M Packing Co. Brooksville, Fla."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: July 9, 1945. The Danahy-Faxon Stores, Inc., Buffalo, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

8106. Adulteration of canned orange juice. U. S. v. 128 Cases and 399 Cases of Canned Orange Juice. Default decrees of condemnation and destruction. (F. D. C. Nos. 16379, 16380. Sample Nos. 769-H, 770-H.)

LIBELS FILED: June 26, 1945, Northern District of Georgia.

ALLEGED SHIPMENT: On or about January 22 and April 21, 1945, by Citrus Concentrates, Inc., from Dunedin, Fla.

PRODUCT: 527 cases, each containing 24 cans, of orange juice at Atlanta, Ga.

LABEL, IN PART: "Sunfilled Brand Pure Orange Juice."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and a decomposed substance by reason of the presence of maggots, fly eggs, and decomposed orange material.

DISPOSITION: August 1, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

8107. Misbranding of orange juice and pulp. U. S. v. 149 Jugs of Orange Juice and Pulp. Default decree of forfeiture and destruction. (F. D. C. No. 16254. Sample Nos. 19117-H to 19119-H, incl., 19139-H.)

LIBEL FILED: May 26, 1945, Western District of Wisconsin.

ALLEGED SHIPMENT: On or about June 12 and August 25, 1944, and February 19, 1945, by the Nehi Corporation, from Columbus, Ohio.

PRODUCT: 149 1-gallon jugs of orange juice and pulp at Menomonie, Wis. Analysis showed that the product was a mixture of about 70 percent orange juice, containing substantially more fragments of insoluble orange tissue than does commercial orange juice, water, added citric acid and either added phosphoric acid or acid phosphate, and sodium benzoate.

LABEL, IN PART: "Nehi Corporation Par-T-Pak Orange Juice and Pulp."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the name "Orange Juice and Pulp" and the words "Contains orange juice and citric acid * * * This product contains no preservative," appearing on the bottle label, were false and misleading as applied to a mixture of orange juice, excess fragments of insoluble orange tissues, water, citric and phosphoric acids, or acid phosphate, and the chemical preservative, benzoate of soda; Section 403 (i) (2), the label did not bear the common or usual name of each ingredient of the product; and, Section 403 (k), the product contained a chemical preservative, benzoate of soda, and the label did not state that fact.

DISPOSITION: July 16, 1945. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

CEREALS AND CEREAL PRODUCTS*

CORN MEAL

8108. Adulteration of corn meal. U. S. v. 21 Bags of Corn Meal. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16843. Sample Nos. 13430-H, 13431-H.)

LIBEL FILED: July 13, 1945, Southern District of Ohio.

*See also No. 8248.

ALLEGED SHIPMENT: On or about May 9 and June 22, 1945, by Bundy Brothers Mill Co., from Medora, Ind.

PRODUCT: 13 100-pound bags of yellow corn meal and 8 100-pound bags of white corn meal, at Cincinnati, Ohio.

LABEL, IN PART: "Medora Roller Mills Fancy Fresh Ground Cream Meal."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and rodent hair fragments.

DISPOSITION: August 1, 1945. Henry Nagel and Son, Cincinnati, Ohio, claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond to be converted into stock feed, under the supervision of the Food and Drug Administration.

8109. Adulteration of corn meal. U. S. v. 11 Bags of Corn Meal. Default decree of condemnation. Product ordered sold. (F. D. C. No. 16764. Sample No. 22171-H.)

LIBEL FILED: June 28, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: November 28, 1945, by the Decatur Milling Co., from Decatur, Ill.

PRODUCT: 11 100-pound bags of corn meal at Wellston, Mo.

LABEL, IN PART: "Degerminated Hudnuts Hexagon Brand Cream Meal."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and insect fragments.

DISPOSITION: July 27, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, conditioned upon the adoption of such safeguards against its use for human consumption as directed by the Federal Security Agency.

8110. Adulteration of corn meal. U. S. v. 519 Bags of Corn Meal. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16634. Sample No. 355-H.)

LIBEL FILED: June 26, 1945, Southern District of Florida.

ALLEGED SHIPMENT: On or about May 24, 1945, by the Wade Wood Milling Co., from Birmingham, Ala.

PRODUCT: 113 bags, each containing 5 10-pound packages; 223 bags, each containing 8 5-pound packages; and 183 bags, each containing 12 2-pound packages, of corn meal at Jacksonville, Fla.

LABEL, IN PART: (Packages) "Mandy Old Style Rock Ground Corn Meal Unbolted."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments, rodent hairs, and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 20, 1945. The Wade Wood Milling Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed under the supervision of the Food and Drug Administration.

8111. Adulteration of corn meal and flour. U. S. v. 332 Bags of Flour and 55 Bags of Corn Meal. Consent decrees of condemnation. Products ordered released under bond. (F. D. C. Nos. 16217, 16236. Sample Nos. 24432-H, 24433-H, 24437-H.)

LIBELS FILED: May 21 and 24, 1945, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about November 15, 1944, from Indianapolis, Ind., and April 3, 1945, from Chickasha, Okla.

PRODUCT: 55 100-pound bags of corn meal and 332 100-pound bags of flour at New Orleans, La., in the possession of the Orleans Storage Co. The products were stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on some of them. Examination showed that the products contained weevils, larvae, cast skins, and rodent pellets.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been

stored under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: July 17, 1945. The Seago-Callender Co. and John E. Koerner & Co., New Orleans, La., claimants, having consented to the entry of decrees, judgments of condemnation were entered and the products were ordered released under bond for conversion into stock feed under the supervision of the Federal Security Agency.

FLOUR*

Nos. 8112 to 8127 and 8129 to 8133 report actions involving flour that was insect- or rodent-infested, or both. (In those cases in which the time of contamination was determined, that fact is stated in the notice of judgment.) The flour reported in No. 8128 failed to conform to the definition and standard for enriched flour.

8112. Adulteration of flour. U. S. v. 360 Bags and 52 Bales of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16881. Sample No. 13432-H.)

LIBEL FILED: July 19, 1945, Southern District of Ohio.

ALLEGED SHIPMENT: On or about July 5, 1945, by the Batesville Roller Mills, from Batesville, Ind.

PRODUCT: 160 25-pound bags, 200 10-pound bags, and 52 bales, each containing 8 5-pound bags, of flour at Cincinnati, Ohio.

LABEL, IN PART: "Your Brand Flour Bleached."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, larvae, and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 22, 1945. The Batesville Roller Mills, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for denaturing and conversion into stock feed under the supervision of the Food and Drug Administration.

8113. Adulteration of flour. U. S. v. 12 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16813. Sample No. 17140-H.)

LIBEL FILED: July 17, 1945, Northern District of Illinois.

ALLEGED SHIPMENT: On or about February 14, 1945, by the St. Cloud Milling Co., from St. Cloud, Minn.

PRODUCT: 127 100-pound bags of flour at Chicago, Ill.

LABEL, IN PART: "Sky Bolt First Clear Flour Bleached."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and rodent excreta.

DISPOSITION: July 25, 1945. The Anchor Mills, Inc., Chicago, Ill., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for denaturing under the supervision of the Food and Drug Administration.

8114. Adulteration of flour. U. S. v. 205 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16801. Sample Nos. 24053-H, 24054-H.)

LIBEL FILED: July 11, 1945, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about May 28, 1945, by the Texas Star Flour Mill, from Fort Worth, Tex.

PRODUCT: 205 100-pound bags of flour at New Orleans, La. This product contained weevils, and a portion contained both weevils and larvae.

LABEL, IN PART: "Anita Flour Bleached," or "Anita High Protein Flour Bleached."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance.

DISPOSITION: August 8, 1945. The Texas Star Flour Mill Co., claimant, having

*See also Nos. 8111, 8138.

consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed under the supervision of the Federal Security Agency.

8115. Adulteration of flour. U. S. v. 82 Bags of Flour (and 4 other seizure actions against flour). Decrees of condemnation. Portion of product ordered destroyed; remainder ordered converted into animal feed. (F. D. C. Nos. 16269 to 16271, incl., 16421. Sample Nos. 24621-H to 24626-H, incl.)

LIBELS FILED: June 6 and 9, 1945, Eastern District of Louisiana.

ALLEGED SHIPMENT: Between the approximate dates of January 22 and April 25, 1945, from Stamford, Tex., Hutchinson, Kans., and Jackson, Miss.

PRODUCT: 700 140-pound bags and 325 100-pound bags of flour at New Orleans, La., in the possession of the Orleans Storage Co. Warehouse. The product was stored under insanitary conditions after shipment. Rodent excreta and urine stains were observed on many of the bags, and some of the bags were rodent-gnawed. Examination showed that the product contained weevils, larvae, and cast skins, and, in some cases, was contaminated with urine.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 27, 1945. P. L. Thomson and Co., New Orleans, La., claimant in 4 of the seizure actions, having admitted the allegations of the libels, and the 4 actions having been consolidated, judgment of condemnation was entered and the product was ordered released under bond for conversion into animal feed under the supervision of the Food and Drug Administration. On August 29, 1945, no claimant having appeared for the product involved in the remaining lot (77 100-pound bags), judgment of condemnation was entered and the product was ordered destroyed.

8116. Adulteration of flour. U. S. v. 202 Bags of Flour. Default decree of condemnation and destruction. (F. D. C. No. 16659. Sample No. 359-H.)

LIBEL FILED: July 2, 1945, Southern District of Georgia.

ALLEGED SHIPMENT: On or about May 3, 1945, from Atchison, Kans.

PRODUCT: 202 25-pound bags of flour at Brunswick, Ga., in the possession of Glynn Distributors. This product was stored under insanitary conditions after shipment. Many of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent excreta, rodent hairs, larvae, and insect fragments.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 30, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8117. Adulteration of flour. U. S. v. 47 Bags and 125 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 16483, 16800. Sample Nos. 24374-H, 24492-H.)

LIBELS FILED: June 18 and July 10, 1945, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about April 28 and May 19, 1945, by the Larabee Flour Mills Co., from Kansas City, Mo.

PRODUCT: 47 100-pound bags and 125 100-pound bags of flour at Gretna and New Orleans, La., respectively.

LABEL, IN PART: "Sunloaf Flour Stabilized Bleached," or "Larabee Process Larabee's Cream Loaf Flour Bleached."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

DISPOSITION: August 1, 1945. Ray C. Perry, New Orleans, La., claimant, having consented to the entry of a decree, and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed under the supervision of the Federal Security Agency.

8118. Adulteration of flour. U. S. v. 120 Bags of Flour. Default decree of condemnation. Product ordered sold and denatured. (F. D. C. No. 16189. Sample Nos. 21841-H, 21842-H.)

LIBEL FILED: May 21, 1945, Western District of Tennessee.

ALLEGED SHIPMENT: On or about April 20, 1945, by the Cape County Milling Co., from Jackson, Mo.

PRODUCT: 20 100-pound bags and 100 50-pounds bags of flour at Memphis, Tenn.

LABEL, IN PART: "Bleached Enriched Kitchen Queen Flour."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 13, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold to the highest bidder, conditioned that it be denatured for use other than human consumption.

8119. Adulteration of flour. U. S. v. 86 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16023. Sample No. 13452-H.)

LIBEL FILED: May 7, 1945, Southern District of Ohio.

ALLEGED SHIPMENT: On or about January 12, 1945, from Davenport, Iowa.

PRODUCT: 86 100-pound bags of flour at Cincinnati, Ohio, in the possession of the Baltimore and Ohio Warehouse Co. The article was stored under insanitary conditions after shipment. Some bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the article was contaminated with urine.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 11, 1945. The International Milling Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for denaturing and conversion into animal feed under the supervision of the Food and Drug Administration.

8120. Adulteration of flour. U. S. v. 98 Bags and 43 Bags of Flour. Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 16022, 16182. Sample Nos. 13450-H, 13451-H.)

LIBELS FILED: May 7 and 15, 1945, Southern District of Ohio.

ALLEGED SHIPMENT: On or about February 9, 1945, by the Larabee Flour Mills Co., North Kansas City, Mo.

PRODUCT: 141 100-pound bags of flour at Cincinnati, Ohio.

LABEL, IN PART: "Larabee's Bleached Cream Loaf [or "Sun Loaf Bleached"] Flour."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, insects, and insect fragments.

DISPOSITION: June 29, 1945. The Commander Larabee Milling Co., Minneapolis, Minn., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be denatured for use as stock feed, under the supervision of the Food and Drug Administration.

8121. Adulteration of flour. U. S. v. 94 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16431. Sample No. 24631-H.)

LIBEL FILED: June 9, 1945, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about April 7 and May 1, 1945, by the Whitewright Milling Co., from Denton, Tex.

PRODUCT: 94 100-pound bags of flour at New Orleans, La.

LABEL, IN PART: "Bleached Strong Bakers Patent Flour."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and cast skins.

DISPOSITION: August 3, 1945. Schmidt & Compagno, New Orleans, La., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed under the supervision of the Federal Security Agency.

8122. Adulteration of flour. U. S. v. 318 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16430. Sample No. 24630-H.)

LIBEL FILED: June 9, 1945, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about April 20, 1945, by the C. Monnander Milling Co., from Buffalo, N. Y.

PRODUCT: 318 50-pound bags of flour at New Orleans, La.

LABEL, IN PART: "No. 3 Edible Flour * * * Zy Vo Base Enriched Manufactured by Zy-Vo Corporation, Philadelphia, Pennsylvania."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and webbing.

DISPOSITION: August 1, 1945. Ray C. Perry, New Orleans, La., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed under the supervision of the Federal Security Agency.

8123. Adulteration of flour. U. S. v. 100 Bags of Flour. Default decree of condemnation. Product ordered sold. (F. D. C. No. 15945. Sample No. 22924-H.)

LIBEL FILED: April 21, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about March 21, 1945, by the Monroe Milling Co., from Waterloo, Ill.

PRODUCT: 100 100-pound bags of flour at St. Louis, Mo.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles; and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 18, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold on condition that it be denatured as directed by the Federal Security Agency, so that it could not be used for human consumption.

8124. Adulteration of flour. U. S. v. 99 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16645. Sample No. 772-H.)

LIBEL FILED: June 26, 1945, Northern District of Georgia.

ALLEGED SHIPMENT: On or about May 16, 1945, from Red Bud, Ill.

PRODUCT: 99 140-pound bags of flour at Griffin, Ga., in possession of the H. V. Kell Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the product contained rodent pellets and was contaminated with rodent urine.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 23, 1945. The H. V. Kell Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed under the supervision of the Federal Security Agency.

8125. Adulteration of corn flour. U. S. v. 75 Bags of Corn Flour. Default decree of condemnation. Unfit portion ordered destroyed; remainder ordered sold. (F. D. C. No. 16226. Sample No. 32330-H.)

LIBEL FILED: May 21, 1945, Southern District of California.

ALLEGED SHIPMENT: On or about January 2, 1945, from Decatur, Ill.

PRODUCT: 75 100-pound bags of corn flour at Los Angeles, Calif., in the possession of the Overland Terminal Warehouse. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed,

and urine stains were observed on them. Examination showed that the product contained rodent excreta and rodent hair fragments.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 20, 1945. No claimant having appeared, judgment of condemnation was entered and it was ordered that the unfit portion of the flour be destroyed and the remainder sold.

8126. Adulteration of macaroni flour. U. S. v. 63 Bags of Macaroni Flour. Consent decree of condemnation. Product released under bond. (F. D. C. No. 16812. Sample No. 29794-H.)

LIBEL FILED: July 11, 1945, Northern District of California.

ALLEGED SHIPMENT: On or about February 27, 1945, by the Prosser Flour Mills, from North Prosser, Wash.

PRODUCT: 63 100-pound bags of macaroni flour at Oakland, Calif.

LABEL, IN PART: "Northwest Flour Co. San Francisco Distributors Best Macaroni Flour Unbleached."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, rodent pellets, and rodent hairs.

DISPOSITION: August 10, 1945. Robert J. Maini, trading as the Northwest Flour Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be converted into stock feed under the supervision of the Federal Security Agency.

8127. Adulteration of pastry flour, phosphated flour, and plain flour. U. S. v. 57 Bags of Plain Flour, 250 Bags of Cake Flour, and 180 Bags of Phosphated Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16272. Sample Nos. 22055-H to 22058-H, incl.)

LIBEL FILED: June 12, 1945, Western District of Tennessee.

ALLEGED SHIPMENT: Between the approximate dates of November 17, 1944, and April 15, 1945, from Springfield, Ill., and Enid, Okla.

PRODUCT: 57 100-pound bags of plain flour, 250 100-pound bags of cake flour, and 72 100-pound bags and 108 50-pound bags of phosphated flour at Memphis, Tenn., in the possession of the Pillsbury Mills, Inc. The products were stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the flour was contaminated with urine.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: July 18, 1945. Pillsbury Mills, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond, conditioned that the fit portions be segregated from the unfit portions and the latter converted into animal feed or destroyed under the supervision of the Federal Security Agency.

8128. Adulteration and misbranding of enriched pastry flour. U. S. v. 2,000 Bags of Enriched Pastry Flour. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 16416. Sample No. 9441-H.)

LIBEL FILED: June 6, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about April 9, 1945, by F. W. Stock and Sons, from Hillsdale, Mich.

PRODUCT: 2,000 5-pound bags of enriched pastry flour at Erie, Pa.

LABEL, IN PART: "Enriched * * * Stock's Best Patent Flour Finest Cake Flour."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), valuable constituents, thiamine (vitamin B₁), and iron, had been in part omitted from the product.

Misbranding, Section 403 (g) (1), the article failed to conform to the defini-

tion and standard for enriched flour, since the definition and standard requires that enriched flour shall contain in each pound not less than 2.0 milligrams of thiamine and not less than 13.0 milligrams of iron; and the article contained approximately 1.49 milligrams of thiamine and 10.4 milligrams of iron per pound.

DISPOSITION: July 17, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

8129. Adulteration of rye flour. U. S. v. 31 Bags of Rye Flour. Consent decree of condemnation and destruction. (F. D. C. No. 16242. Sample No. 26584-H.)

LIBEL FILED: On or about May 29, 1945, District of Colorado.

ALLEGED SHIPMENT: Between the approximate dates of February 4 and 28, 1944, from Minneapolis, Minn.

PRODUCT: 31 100-pound bags of rye flour at Denver, Colo., in the possession of the Morey Mercantile Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent excreta, rodent hairs, and insect fragments.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 23, 1945. The Morey Mercantile Co. having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

8130. Adulteration of self-rising flour and plain flour. U. S. v. 23 Bags of Self-Rising Flour and 18 Bags of Plain Flour. Default decree of condemnation and destruction. (F. D. C. No. 16225. Sample Nos. 22666-H, 22667-H.)

LIBEL FILED: May 25, 1945, Western District of Tennessee.

ALLEGED SHIPMENT: On or about February 20, 1945, by the Star Milling Co., from Clinton, Ky.

PRODUCT: 23 25-pound bags of self-rising flour and 18 25-pound bags of plain flour at Union City, Tenn.

LABEL, IN PART: "Bleached Golden Star Self-Rising Flour," or "Bleached Star Best High Patent Flour."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of beetles, larvae, and insect fragments.

DISPOSITION: July 20, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

8131. Adulteration of soy flour. U. S. v. 50 Bags of Soy Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16478. Sample No. 24605-H.)

LIBEL FILED: June 16, 1945, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about April 14, 1945, by the A. E. Staley Manufacturing Co., from Decatur, Ill.

PRODUCT: 50 100-pound bags of soy flour at New Orleans, La.

LABEL, IN PART: "Staley's Soy Flour Especially Processed For Meat Packers."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect excreta, and webbing.

DISPOSITION: June 21, 1945. The A. E. Staley Manufacturing Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be converted into stock feed under the supervision of the Food and Drug Administration.

8132. Adulteration of soyflake flour. U. S. v. 70 Bags of Soyflake Flour. Default decree of condemnation and destruction. (F. D. C. No. 16436. Sample No. 9364-H.)

LIBEL FILED: June 12, 1945, Western District of New York.

ALLEGED SHIPMENT: Between the approximate dates of September 14, 1944, and January 17, 1945, from Decatur, Ill.

PRODUCT: 70 100-pound bags of soyflake flour at Medina, N. Y., in the possession of the H. J. Heinz Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent excreta pellets and rodent hairs.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 24, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8133. Adulteration of whole wheat flour and plain flour. U. S. v. 525 Bags of Flour. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16420. Sample Nos. 24372-H, 24373-H.)

LIBEL FILED: June 9, 1945, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about April 27, 1945, by the Kansas Milling Co., from Wichita, Kans.

PRODUCT: 500 140-pound bags of plain flour and 25 140-pound bags of whole wheat flour at New Orleans, La.

LABEL, IN PART: "Flour Bleached 42 B. K.," or "Bleached Whole-Wheat Flour 42 K. W."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of beetles, larvae, and weevils.

DISPOSITION: June 19, 1945. The Great Atlantic and Pacific Tea Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the flour was ordered released under bond to be reprocessed for animal feed (so that it could not be used for human consumption) or destroyed, under the supervision of the Food and Drug Administration.

MISCELLANEOUS CEREAL PRODUCTS

8134. Adulteration of barley. U. S. v. 233 Sacks of Barley. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16474. Sample No. 32344-H.)

LIBEL FILED: June 16, 1945, Southern District of California.

ALLEGED SHIPMENT: On or about April 12, 1945, from Chicago, Ill.

PRODUCT: 233 100-pound sacks of barley at Los Angeles, Calif., in the possession of the Grocers Packing Co. The article was stored under insanitary conditions after shipment. Rodent pellets and urine stains were observed on the sacks, and examination showed that the article was contaminated with rodent urine.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 13, 1945. Leonard Gordon, trading as the Grocers Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

8135. Adulteration of malt barley. U. S. v. 1,040 Bushels of Malt Barley. Consent decree ordering product released under bond. (F. D. C. No. 16346. Sample No. 6888-H.)

LIBEL FILED: June 8, 1945, Eastern District of New York.

ALLEGED SHIPMENT: On or about April 14, 1945, by the Kurth Malting Co., from Milwaukee, Wis.

PRODUCT: 1,040 bushels of malt barley at Brooklyn, N. Y.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, beetles, larvae, and insect fragments.

DISPOSITION: July 24, 1945. The Maltine Co., Brooklyn, N. Y., claimant, having admitted the allegations of the libel, judgment was entered ordering the

product released under bond to be denatured for use as poultry or animal food, under the supervision of the Food and Drug Administration.

8136. Adulteration of ground buckwheat hulls. U. S. v. 75 Bags of Ground Buckwheat Hulls. Default decree of condemnation and destruction. (F. D. C. No. 16762. Sample No. 18253-H.)

LIBEL FILED: July 10, 1945, Southern District of Iowa.

ALLEGED SHIPMENT: On or about April 26, 1945, by Frank H. Blodgett, Inc., from Janesville, Wis.

PRODUCT: 75 90-pound bags of ground buckwheat hulls at Des Moines, Iowa.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments.

DISPOSITION: August 17, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8137. Adulteration of corn flakes. U. S. v. 48 Bags of Corn Flakes. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 16179. Sample No. 30965-H.)

LIBEL FILED: May 12, 1945, Southern District of California.

ALLEGED SHIPMENT: On or about December 22, 1944, from Decatur, Ill.

PRODUCT: 48 bags, each containing 50 pounds, of corn flakes at Los Angeles, Calif., in the possession of the M. E. Bear Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product was contaminated with urine and contained rodent hairs.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 29, 1945. The M. E. Bear Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be sold to the motion picture industry to be used for artificial snow, under the supervision of the Food and Drug Administration.

8138. Adulteration of corn grits and flour. U. S. v. 98 Bags of Grits and 155 Bags of Flour. Consent decrees of condemnation. Products ordered released under bond. (F. D. C. Nos. 16216, 16401. Sample Nos. 24434-H, 24627-H.)

LIBELS FILED: May 21 and June 8, 1945, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about December 29, 1944, and February 17, 1945, from Decatur, Ill., and Hudson, Kans.

PRODUCT: 98 100-pound bags of grits and 155 100-pound bags of flour at New Orleans, La., in the possession of the Orleans Storage Co. Both products were stored under insanitary conditions after shipment. Some of the bags of grits were rodent-gnawed, and rodent pellets were observed on them and on the bags of flour, which were also urine-stained. Examination showed that the grits contained rodent pellets and rodent hair fragments, and that the flour contained weevils and larvae.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: August 8, 1945. The Seago-Callender Co. and John E. Koerner & Co., New Orleans, La., claimants, having consented to the entry of decrees, judgments of condemnation were entered and the products were ordered released under bond for conversion into stock feed under the supervision of the Federal Security Agency.

8139. Adulteration of popcorn. U. S. v. 90 Cartons of Popcorn. Default decree of condemnation and destruction. (F. D. C. No. 16393. Sample No. 19233-H.)

LIBEL FILED: June 2, 1945, District of North Dakota.

ALLEGED SHIPMENT: On or about April 9, 1945, by Edward A. Graham, from Chicago, Ill.

PRODUCT: 90 cartons, each containing 36 8-ounce packages, of popcorn at Fargo, N. Dak. Examination showed that the product contained rodent excreta pellets and rodent-gnawed kernels.

LABEL, IN PART: "Popcorn Selected Finest Quality * * * Riverside Popcorn Sales, Chicago 54, Ill."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance.

DISPOSITION: August 23, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8140. Adulteration of popcorn. U. S. v. 18 Bags of Popcorn. Default decree of condemnation. Product ordered sold and denatured. (F. D. C. No. 16396. Sample No. 21869-H.)

LIBEL FILED: June 12, 1945, Western District of Tennessee.

ALLEGED SHIPMENT: On or about December 14, 1943, from St. Joseph, Mo.

PRODUCT: 18 100-pound bags of popcorn at Covington, Tenn., in the possession of the New Gem Theatre. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta was observed on them. Examination showed that the product contained rodent excreta pellets and larvae.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 20, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, conditioned upon the adoption of safeguards to insure that it would not be disposed of for human consumption.

8141. Adulteration of popcorn. U. S. v. 75 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16264. Sample No. 23757-H.)

LIBEL FILED: June 1, 1945, Southern District of Texas.

ALLEGED SHIPMENT: On or about August 29, 1944, from Durant, Okla.

PRODUCT: 75 unlabeled bags of popcorn at Houston, Tex., in the possession of the Houston Central Warehouse Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets were observed on them. Examination showed that the article contained weevils, insect-infested kernels, and rodent excreta.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 23, 1945. The Houston Central Warehouse Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was released under bond to be brought into compliance with the law by washing and cleaning under the supervision of the Food and Drug Administration.

8142. Adulteration of popcorn. U. S. v. 200 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16417. Sample No. 22068-H.)

LIBEL FILED: June 7, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about February 10, 1945, by the Vogel and Son Popcorn Co., from Hamburg, Iowa.

PRODUCT: 200 100-pound bags of popcorn at St. Louis, Mo.

LABEL, IN PART: "Davis Hybrid Pop Corn Packed By Better Taste Pop Corn Co. Anderson, Ind."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta pellets.

DISPOSITION: July 3, 1945. The Old Vienna Products Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

8143. Adulteration of popeorn. U. S. v. 25 Bags of Popeorn. Default decree of condemnation. Product ordered sold. (F. D. C. No. 16432. Sample No. 21875-H.)

LIBEL FILED: June 12, 1945, Western District of Tennessee.

ALLEGED SHIPMENT: On or about March 24, 1945, by the Pastime Theatre, from Warren, Ark.

PRODUCT: 25 100-pound bags of popcorn at Memphis, Tenn.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta pellets.

DISPOSITION: July 20, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, conditioned upon the adoption of safeguards to insure that it would not be disposed of for human consumption.

8144. Adulteration of popcorn. U. S. v. 97 Bags and 900 Bags of Popcorn. Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 16166, 16167. Sample Nos. 27648-H, 27649-H.)

LIBEL FILED: May 16, 1945, Western District of Washington.

ALLEGED SHIPMENT: On or about March 20, 1945, by the Peppard Seed Co., from Lake View, Iowa.

PRODUCT: 997 100-pound bags of popcorn at Seattle, Wash.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent hairs.

DISPOSITION: June 1, 1945. The Peppard Seed Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be segregated, sorted, or cleaned in order to eliminate all filth, under the supervision of the Food and Drug Administration.

8145. Adulteration of popeorn. U. S. v. 157 Dozen Bags and 390 Dozen Bags of Popcorn. Decrees of destruction. (F. D. C. Nos. 16173, 16174. Sample Nos. 13175-H, 13176-H.)

LIBELS FILED: May 15, 1945, Southern District of Ohio.

ALLEGED SHIPMENT: On or about April 16 and 18, 1945, by the Better Taste Popcorn Co., Anderson, Ind.

PRODUCT: 157 dozen $\frac{3}{4}$ -ounce bags of popcorn at Dayton, Ohio, and 390 dozen 2-ounce bags of popcorn at Hamilton, Ohio.

LABEL, IN PART: "Popcorn * * * Ingredients: Popcorn, Edible Oil, Salt, U. S. Certified Color."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, an edible oil, had been in whole or in part omitted from the article; Section 402 (b) (2), popped corn with artificially colored, nonnutritive mineral oil had been substituted in whole or in part for popcorn with edible oil, which the article was represented to be; Section 402 (b) (3), inferiority had been concealed by the addition of artificial color; and, Section 402 (b) (4), artificially colored mineral oil had been mixed and packed with the article so as to reduce its quality or strength and make it appear better and of greater value than it was.

DISPOSITION: May 22 and June 25, 1945. The consignee of the Hamilton lot having consented to its destruction, and no claimant having appeared for the Dayton lot, judgments were entered ordering that the product be destroyed.

8146. Adulteration of rice. U. S. v. 150 Bags of Rice. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16054. Sample No. 4227-H.)

LIBEL FILED: April 23, 1945, District of New Jersey.

ALLEGED SHIPMENT: On or about November 14, 1944, from Philadelphia, Pa.

PRODUCT: 150 100-pound bags of rice at Atlantic City, N. J., in the possession of Packman Brothers. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the article contained rodent excreta pellets and rodent hairs.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 14, 1945. Packman Brothers, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the fit portion be salvaged and the remainder converted into stock feed under the supervision of the Federal Security Agency.

8147. Adulteration of rice. U. S. v. 103 Bags of Rice. Default decree of condemnation and destruction. (F. D. C. No. 16490. Sample No. 27271-H.)

LIBEL FILED: June 25, 1945, Eastern District of Washington.

ALLEGED SHIPMENT: On or about March 1, 1945, from Sacramento, Calif.

PRODUCT: 103 100-pound bags of rice at Spokane, Wash., in the possession of the Roundup Grocery Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta pellets and urine stains were observed on them. Examination showed that the product contained rodent excreta pellets and rodent hairs.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 9, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8148. Adulteration of rice. U. S. v. 25 Bags of Rice. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16004. Sample No. 9439-H.)

LIBEL FILED: May 4, 1945, Western District of New York.

ALLEGED SHIPMENT: On or about November 24, 1944, by L. A. Black, Rice Miller, from DeWitt, Ark.

PRODUCT: 25 100-pound bags of rice at Buffalo, N. Y.

LABEL, IN PART: "Extra Fancy Zenith Rice."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

DISPOSITION: May 18, 1945. The Buffalo Sugar and Coffee Service Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation of the good portion from the bad portion, under the supervision of the Food and Drug Administration. The unfit portion of the shipment was denatured for use as animal feed.

8149. Adulteration of molding starch. U. S. v. 89 Bags of Molding Starch. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16066. Sample No. 5668-H.)

LIBEL FILED: April 26, 1945, District of New Jersey.

ALLEGED SHIPMENT: On or about August 19, 1944, by the National Starch Products, Inc., from Indianapolis, Ind.

PRODUCT: 89 100-pound bags of molding starch at Jersey City, N. J.

LABEL, IN PART: (Bag) "Hoosier Starches Dextrines Gums Sizings Adhesives."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, insect fragments, soot, pebbles, rust, and charcoal fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 29, 1945. The National Starch Products, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be utilized in the manufacture of industrial adhesive or sizing under the supervision of the Food and Drug Administration.

8150. Adulteration of ground wheat and wheat germ. U. S. v. 194 Bags of Ground Wheat and 15 Bags of Wheat Germ. Consent decree of condemnation. Products ordered released under bond. (F. D. C. No. 16739. Sample Nos. 20080-H, 20081-H.)

LIBEL FILED: On or about June 22, 1945, Southern District of Iowa.

ALLEGED SHIPMENT: On or about May 28 and 31, 1945, by the Nebraska Consolidated Mills Co., from Omaha, Nebr.

PRODUCT: 194 90-pound bags of ground wheat and 15 100-pound bags of wheat germ at Council Bluffs, Iowa.

LABEL, IN PART: (Ground wheat) "Property of Dwarfies Corp. Council Bluffs, Iowa."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent excreta fragments, larvae, and larva fragments.

DISPOSITION: August 4, 1945. The Nebraska Consolidated Mills Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the products were ordered released under bond, conditioned that they be denatured and relabeled as unfit for human consumption, under the supervision of the Food and Drug Administration.

CHOCOLATE, SUGARS, AND RELATED PRODUCTS*

CANDY

8151. Action to enjoin and restrain the interstate shipment of adulterated candy. U. S. v. McGraw Candy Co. and Francis D. McMahon and Walter W. McGraw. Tried to the court. Injunction granted. (Inj. No. 38.)

COMPLAINT FILED: December 23, 1942, Southern District of Alabama, against the McGraw Candy Co., Mobile, Ala., and Francis D. McMahon and Walter W. McGraw, employees of the company.

NATURE OF CHARGE: From on or about October 28, 1942, to the time the complaint was filed, the defendants had been preparing, packing, processing, and otherwise manufacturing, and offering for interstate shipment and shipping in interstate commerce, candy that was adulterated in the following manner: Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets and rodent urine; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth and may have been rendered injurious to health.

PRAYER OF COMPLAINT: That a preliminary injunction issue, restraining the defendants from commission of the acts complained of; and that, after due proceedings, the preliminary injunction be made permanent.

DISPOSITION: December 23, 1942. The defendants were ordered to show cause why a preliminary injunction should not issue as prayed; and the matter having been heard before the court, a temporary restraining order was issued on December 28, 1942. On January 9, 1943, a hearing was had on the merits and on the Government's motion to make the temporary order permanent. On October 2, 1943, the court entered the following findings of fact, conclusions of law, and order permanently enjoining the defendants from the commission of the acts complained of:

McDUFFIE, District Judge:

FINDINGS OF FACT

"The structure within which the defendants have manufactured their products, is not and cannot be made rat proof. Efforts have been made by the Company to eliminate the rats that made the premises unsanitary. The structure is very old, and in order to make it conform to the suggestions of the agents of the government, or its Bureau seeking to enforce the provisions of the Pure Food Laws, it would be necessary to practically reconstruct the building. Such an expense is not justified because of the volume of business done. Second, candy manufactured and shipped, contained rat hairs and rat excreta, and the conditions under which the candy was manufactured are found not to be in compliance with the rules and regulations of the authorities of the government. Third, for several months the Company has not shipped its products in Interstate Commerce, and has in that respect complied with the restraining order of this Court of December 28, 1942. Fourth, the owner or proprietor of this Company involved, is now and has been for many months in the armed service of the United States, and was in such service when this action was filed. He is therefore not personally responsible for any failure of the Company

*See also Nos. 8270, 8284.

and it has been impossible for him to give his personal supervision to his Company here involved, and the officers and employees have endeavored to improve the sanitation of the building within the limitations fixed because of the costs involved.

CONCLUSIONS OF LAW

"This Court has jurisdiction of this cause, and believing that the premises involved cannot be constructed so as to comply with the rules and regulations of the Department of the government herein interested, the preliminary injunction heretofore granted, should now be made permanent.

ORDER OF THE COURT

"IT IS THEREFORE ORDERED, ADJUDGED and DECREED that the Candy Company, its officers, representatives, agents, servants and employees, be, and they are permanently enjoined and restrained from shipping in Interstate Commerce in violation of Section 331(a) and Section 342 (a) (3) and (4) Title 21, United States Code, adulterated candy, prepared or processed or manufactured within the premises on which the business of the defendant is now operated."

8152. Adulteration of candy. U. S. v. 994 Boxes of Candy (and 2 other seizure actions against candy). Default decrees of condemnation and destruction. (F. D. C. Nos. 16387, 16491, 16776. Sample Nos. 29681-H, 29684-H, 29687-H, 29688-H, 29577-H.)

LIBELS FILED: June 4 and 20 and July 3, 1945, Northern District of California.

ALLEGED SHIPMENT: Between the approximate dates of March 14 and April 26, 1945, by the Schloss Trucking Co., from New York, N. Y.

PRODUCT: 1,703 cartons and 994 boxes, each containing 24 bars, of chocolate-covered peanut bars at San Francisco, Calif.

LABEL, IN PART: "Chocolate Covered Peanut Bar * * * Made by Leading Candy Co., New York, N. Y."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of mold.

DISPOSITION: August 11, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

8153. Adulteration of candy. U. S. v. 6 Cases of Candy. Default decree of condemnation and destruction. (F. D. C. No. 16412. Sample No. 23758-H.)

LIBEL FILED: On or about June 9, 1945, Southern District of Texas.

ALLEGED SHIPMENT: On or about April 9, 1945, by the Walter Williams Candy Co., from Oklahoma City, Okla.

PRODUCT: 6 cases, each containing 10 boxes, of candy at Houston, Tex.

LABEL, IN PART: "Williams Jellies."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product contained rodent hairs.

DISPOSITION: July 24, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8154. Adulteration of licorice candy. U. S. v. 9 Cases of Licorice Candy. Default decree of condemnation and destruction. (F. D. C. No. 15950. Sample No. 17365-H.)

LIBEL FILED: April 21, 1945, Eastern District of Wisconsin.

ALLEGED SHIPMENT: On or about March 30, 1945, by the Licorice Products Co., from Dubuque, Iowa.

PRODUCT: 9 cases, each containing 312 1¾-ounce packages, of licorice candy at Milwaukee, Wis.

LABEL, IN PART: "Licorice and Anise Flavored Imps."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 17, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8155. Adulteration of candy. U. S. v. 110 Boxes of Candy (and 1 other seizure action against candy). Default decrees of condemnation and destruction. (F. D. C. Nos. 16037, 16177. Sample Nos. 4715-H, 12920-H, 14512-H to 14514-H, incl.)

LIBELS FILED: April 16 and May 14, 1945, District of New Jersey and Southern District of Ohio.

ALLEGED SHIPMENT: Between the approximate dates of February 21 and April 10, 1945, by J. Ralph Kirkley, Inc., from Philadelphia, Pa.

PRODUCT: 110 1-pound boxes of candy at Camden, N. J., and 17 5-pound boxes, 53 12-ounce packages, 55 1-pound packages, and 11 boxes, each containing 40 bars, of candy at Dayton, Ohio.

LABEL, IN PART: "Kirkley's Kernels [or "Krunch Kandies," "Soya Butter Crunch," or "Chocolates * * * The Floral Box"]," or "40 Count Kirkleys Chocolate Kernel Bars."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, cat hair fragments, and cat hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 8 and 26, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

8156. Adulteration of candy. U. S. v. 36 Boxes of Candy. Default decree of condemnation and destruction. (F. D. C. No. 16078. Sample No. 4453-H.)

LIBEL FILED: April 30, 1945, District of New Jersey.

ALLEGED SHIPMENT: On or about April 10, 1945, by H. Segal, from Philadelphia, Pa.

PRODUCT: 36 boxes, each containing 48 pieces, of candy at Camden, N. J.

LABEL, IN PART: "H. Segal's Chocolate Fudge."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 8, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8157. Adulteration of candy. U. S. v. 58 Boxes of Candy. Default decree ordering product converted into animal feed or destroyed. (F. D. C. No. 16207.) Sample No. 18658-H.)

LIBEL FILED: May 20, 1945, District of Minnesota.

ALLEGED SHIPMENT: Between the approximate dates of January 26 and March 2, 1945, by Paula's Lebkuchen, From New York, N. Y.

PRODUCT: 46 1-pound boxes and 12 ½-pound boxes of candy at Minneapolis, Minn.

LABEL, IN PART: "Paula's Celebrated Chocolate Rum Truffle [or "Chocolate Truffle," or "Assorted Rum-Truffle & Marzipan Candies"]."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae and webbing.

DISPOSITION: August 16, 1945. No claimant having appeared, judgment was entered ordering that the product be destroyed unless processed into animal feed, under the supervision of the Food and Drug Administration.

8158. Adulteration of candy. U. S. v. 39 Cases of Candy. Default decree of condemnation and destruction. (F. D. C. No. 16759. Sample No. 28495-H.)

LIBEL FILED: June 28, 1945, Western District of Washington.

ALLEGED SHIPMENT: On or about April 24, 1945, by the Arthur Mayer Co., from Jersey City, N. J.

PRODUCT: 39 cases, each containing 10 5-pound boxes, of candy at Tacoma, Wash. Examination showed that the product was fermented.

LABEL, IN PART: "Peanut Pieces Mfd. By Leading Candy Co., New York, N. Y."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: August 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8159. Adulteration and misbranding of candy. U. S. v. 39 Boxes and 78 Boxes of Candy. Default decree of condemnation and destruction. (F. D. C. No. 16337. Sample Nos. 632-H, 633-H.)

LIBEL FILED: June 6, 1945, Northern District of Georgia.

ALLEGED SHIPMENT: On or about May 11, 1945, by F. H. Seelye, from Charlotte, N. C.

PRODUCT: 39 boxes, each containing 30 bars, and 78 boxes, each containing 120 pieces, of candy at Atlanta, Ga.

LABEL, IN PART: "United Candies Chocolate Bar [or "Chocolate Square"] * * * United Candy Co., Charlotte, N. C."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, chocolate, had been in whole or in part omitted from the article.

Misbranding, Section 403 (a) the names "Chocolate Bar" and "Chocolate Square" were false and misleading since the article contained no chocolate; and, Section 403 (k), it contained artificial coloring and failed to bear labeling stating that fact.

DISPOSITION: July 9, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8160. Adulteration and misbranding of candy. U. S. v. 37 Cases and 20 Cases of Candy. Default decree of condemnation. Product ordered delivered to a public institution. (F. D. C. No. 15927. Sample Nos. 27443-H, 27444-H.)

LIBEL FILED: April 24, 1945, District of Oregon.

ALLEGED SHIPMENT: On or about March 7 and 12, 1945, by the California Fruit Chimes Co., from San Gabriel, Calif.

PRODUCT: 37 cases, each containing 48 5-ounce packages, and 20 cases, each containing 24 1-pound packages, of candy at Medford, Oreg. Examination showed that the packages contained irregular pieces of candy, leaving an excessive amount of unfilled space in the packages.

LABEL, IN PART: "Spanish Nut Toffee * * * Made with Sugar, Puffed Rice, Peanuts."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), a mixture containing peanuts and puffed rice had been substituted for Spanish nut toffee, which the article was represented to be.

Misbranding, Section 403 (d), the container was so filled as to be misleading since there was an excessive amount of unfilled space in the package, and thus the package appeared to hold more candy than was actually present.

DISPOSITION: June 23, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution.

8161. Misbranding of candy. U. S. v. 76 Boxes of Candy. Default decree of condemnation. Product ordered delivered to a public institution. (F. D. C. No. 16477. Sample No. 27400-H.)

LIBEL FILED: June 18, 1945, Western District of Washington.

ALLEGED SHIPMENT: On or about May 1, 1945, via automobile of Western Candy Co., Portland, Oreg.

PRODUCT: 76 boxes, each containing 60 cartons, of candy at Vancouver, Wash.

LABEL, IN PART: "Black Beauties English Style Licorice Candy."

VIOLATION CHARGED: Misbranding Section 403 (d), the container of the product was so filled as to be misleading since at least three additional pieces of candy could have been placed therein.

DISPOSITION: July 23, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution.

8162. Misbranding of candy. U. S. v. 249 Cases of Candy. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16631. Sample No. 7085-H.)

LIBEL FILED: June 20, 1945, Eastern District of New York.

ALLEGED SHIPMENT: On or about May 17, 1945, by Nat Newman, Inc., from Atlantic City, N. J.

PRODUCT: 249 cases, each containing 24 boxes, of candy at Brooklyn, N. Y. Examination showed that the product consisted of taffies of a variety of flavors and colors; that it was short-weight; and that the candy occupied only about 80 percent of the volume of its container.

LABEL, IN PART: "Newman's 'Chocolate Fantasies' 12 Ozs. Net Wt."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the label statement "Chocolate Fantasies" was false and misleading as applied to taffies of a variety of flavors and colors and which were not chocolates or chocolate-covered confections; Section 403 (d), the container was so filled as to be misleading since the package appeared to hold more candy than was actually present; and, Section 403 (e) (2), it failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: July 6, 1945. Nat Newman, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled and otherwise brought into compliance with the law, under the supervision of the Food and Drug Administration.

8163. Misbranding of candy. U. S. v. 68 Boxes of Candy. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16085. Sample Nos. 3447-H, 3448-H.)

LIBEL FILED: May 1, 1945, District of Maryland.

ALLEGED SHIPMENT: On or about March 28, 1945, by the Amourette Chocolate Co., from New York, N. Y.

PRODUCT: 68 boxes, each containing 18 bars, of candy at Baltimore, Md. Examination showed that the product was short of the declared weight.

LABEL, IN PART: "Amourette Mocha Chocolate Approx. 3½ Ozs," or "Amourette Bitter-Sweet Chocolate Appr. 3½ Ozs."

VIOLATIONS CHARGED: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents; and, Section 403 (k), it contained artificial flavoring and failed to bear labeling stating that fact.

DISPOSITION: June 12, 1945. Paul Simon, trading as the Amourette Lebkuchen & Chocolate Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

8164. Misbranding of pecan brittle. U. S. v. 26 Boxes of Pecan Brittle. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 16251. Sample No. 10511-H.)

LIBEL FILED: May 26, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about April 5 and 23, 1945, by Stuckey's, from Eastman, Ga.

PRODUCT: 26 8-ounce boxes of pecan brittle at Pittsburgh, Pa.

LABEL, IN PART: "Stuckey's Eastman, Ga. Delicious Pecan Brittle."

VIOLATION CHARGED: Misbranding, Section 403 (d), the container was so filled as to be misleading since only half of the space in the box was filled with candy.

DISPOSITION: June 26, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

8165. Misbranding of candy. U. S. v. 99 Cases of Candy. Default decree of condemnation. Product ordered delivered to a hospital. (F. D. C. No. 16757. Sample No. 28554-H.)

LIBEL FILED: June 27, 1945, Western District of Washington.

ALLEGED SHIPMENT: On or about May 3, 1945, by the Metropolitan Pool Car Association, from New York, N. Y.

PRODUCT: 99 cases, each containing 24 jars, of candy at Tacoma, Wash. Examination showed that the product was short-weight.

LABEL, IN PART: "Delta Hard Candy * * * Cosmo Packing Co., New York, N. Y. Net Weight 8½ Oz."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: August 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a local hospital.

CHOCOLATE AND COCOA PRODUCTS

8166. Adulteration of sweet chocolate. U. S. v. 10 Bags of Sweet Chocolate. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16973. Sample No. 13890-H.)

LIBEL FILED: August 3, 1945, Northern District of Ohio.

ALLEGED SHIPMENT: Between the approximate dates of October 10 and December 1, 1944, by Rockwood and Co., from Brooklyn, N. Y.

PRODUCT: 10 bags, each containing 20 10-pound slabs, of sweet chocolate at Cleveland, Ohio.

LABEL, IN PART: "Stratford Sweet Chocolate."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and larvae.

DISPOSITION: August 17, 1945. The Shoot Chocolate Co., Cleveland, Ohio, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be cleaned to remove all filth, under the supervision of the Food and Drug Administration; and that, if such cleaning were impracticable, it be disposed of for purposes other than human consumption.

8167. Adulteration of chocolate-flavored sirup. U. S. v. 95 Cases of Chocolate Flavored Sirup. Default decree of condemnation and destruction. (F. D. C. No. 15965. Sample No. 10460-H.)

LIBEL FILED: April 26, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about March 1, 1945, by Alexander The Great Beverages, from New York, N. Y.

PRODUCT: 95 cases, each containing 24 1-pound jars, of chocolate-flavored sirup at McKees Rocks, Pa.

LABEL, IN PART: "Alexander the Great Chocolate Flavored Syrup."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of mold.

DISPOSITION: July 17, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8168. Adulteration of ice cream chocolate. U. S. v. 8 Cases and 5 Cases of Ice Cream Chocolate. Default decrees of condemnation and destruction. (F. D. C. Nos. 16689, 16690. Sample Nos. 272-H, 276-H.)

LIBELS FILED: July 6 and 7, 1945, Western District of North Carolina.

ALLEGED SHIPMENT: On or about April 30, 1945, by the C. I. Products Co., from Cincinnati, Ohio.

PRODUCT: 13 cases, each containing 6 No. 10 cans, of ice cream chocolate at Shelby and Gastonia, N. C. Examination showed that the article was undergoing active decomposition.

LABEL, IN PART: "The Best Dairy Flavor Sun Meadow Brand Ice Cream Chocolate."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: August 6 and 9, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

8169. Adulteration and misbranding of cocoa residue powder. U. S. v. 15 Bags of Cocoa Residue Powder. Default decree of condemnation and destruction. (F. D. C. No. 16408. Sample No. 12808-H.)

LIBEL FILED: June 9, 1945, Southern District of Ohio.

ALLEGED SHIPMENT: On or about April 23, 1945, by the Premium Candy Co., from Fayetteville, N. C.

PRODUCT: 15 100-pound bags of cocoa residue powder at Cincinnati, Ohio. Examination showed that the product was cocoa with a large amount of added cacao bean shell.

LABEL, IN PART: (Tag) "From National Food Products Chicago 6, Illinois, * * * Blenco Cocoa Residue Powder."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (4), cacao bean shell had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality or strength.

Misbranding, Section 403 (a), the labeling was misleading as applied to an article which was not cocoa residue powder, but which consisted chiefly of cacao bean shell.

DISPOSITION: July 18, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

SIRUPS AND SUGAR

8170. Adulteration of pancake sirup. U. S. v. 239 Cases of Pancake Sirup. Default decree of condemnation and destruction. (F. D. C. No. 15956. Sample Nos. 9244-H, 10237-H.)

LIBEL FILED: April 23, 1945, Western District of New York.

ALLEGED SHIPMENT: On or about April 3, 1945, by J. W. Birch and Son, from Washington, Pa.

PRODUCT: 239 cases, each containing 24 1-pint bottles, of pancake sirup, at Rochester, N. Y. This product was fermented.

LABEL, IN PART: "Ol' South Pancake Syrup."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: June 6, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8171. Adulteration and misbranding of pancake sirup. U. S. v. 188 Bottles of Pancake Sirup. Default decree of condemnation. Product ordered delivered to public or charitable institutions. (F. D. C. No. 16051. Sample No. 11459-H.)

LIBEL FILED: April 23, 1945, District of Rhode Island.

ALLEGED SHIPMENT: On or about January 19, 1945, by the D. A. Perkins Co., from Somerville, Mass.

PRODUCT: 188 bottles, each containing 1 pint, and 4 jugs, each containing 1 gallon, of pancake sirup at Woonsocket, R. I. The product was an artificially colored solution with an odor and taste suggesting maple, containing less sugar than is contained in maple sirup or pancake sirup.

LABEL, IN PART: "Pancake Syrup Made From Pure Cane Syrup Pure Maple Flavor Water & Caramel Color."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, sugar, had been in part omitted from the article. Misbranding, Section 403 (c), the article was an imitation of another food, maple sirup, and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

DISPOSITION: June 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to public or charitable institutions.

8172. Adulteration and misbranding of sorghum sirup. U. S. v. 244 Cases of Sorghum Sirup. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15949. Sample No. 31055-H.)

LIBEL FILED: April 19, 1945, Southern District of California.

ALLEGED SHIPMENT: On or about March 21, 1945, by Curtis J. Prock, from Eloy, Ariz.

PRODUCT: 244 cases, each containing 6 1-quart, 1-pint jars, of sorghum sirup at Los Angeles, Calif.

LABEL, IN PART: "Home Made Sorghum Made by H. L. Miller Coffeeville, Mississippi."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), a mixture of corn sirup, sugar, or partially refined sugar, and water had been substituted in whole or in part for sorghum, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "Sorghum" was false and misleading as applied to the article.

DISPOSITION: May 2, 1945. Curtis J. Prock, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

8173. Misbranding of sirup. U. S. v. 479 Cases and 99 Cases of Sirup. Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 15904, 15905. Sample Nos. 29225-H, 29227-H.)

LIBEL FILED: April 14, 1945, Southern District of California.

ALLEGED SHIPMENT: On or about February 14, 1945, by S. L. Myrick, from Jefferson and Winnsboro, Tex.

PRODUCT: 479 cases, each containing 6 jars, and 99 cases, each containing 12 jars, of sirup, at Bakersfield and Shafter, Calif. The product was found to be short of the declared volume.

LABEL, IN PART: "East Texas Home Made Sugar Cane Syrup and Corn Syrup Blend [some jars, "1 Quart, 1 Pint, 8½ Fluid Ounces," others "1 Quart, 1 Pint, 10½ Fluid Ounces"]," or "New Crop East Texas Ribbon Cane Syrup Blended with Corn Syrup, Net Contents 1 Pint 8 Ounces." In the latter label, the words "Ribbon Cane Syrup" were in large, conspicuous type and the words "Blended with Corn Syrup" were in small, inconspicuous type.

VIOLATIONS CHARGED: Misbranding, Section 403 (e), the article failed to bear a label containing an accurate statement of the quantity of its contents; and, Section 403 (a), the prominent statement, "Ribbon Cane Syrup," on the label of a portion of the article, was false and misleading since the statement, "Blended with Corn Syrup," did not effectively advise prospective purchasers that the article was other than cane sirup.

DISPOSITION: May 15, 1945. S. L. Myrick, claimant, having admitted the material allegations of the libel, judgments of condemnation were entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

8174. Adulteration of corn sirup solids. U. S. v. 442 Bags of Corn Sirup Solids. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16787. Sample No. 23016-H.)

LIBEL FILED: July 5, 1945, Western District of Tennessee.

ALLEGED SHIPMENT: On or about January 5 and 29 and March 17, 1945, from Chicago, Ill.

PRODUCT: 442 bags of corn sirup solids at Memphis, Tenn., in the possession of the Tennessee Warehouse Co. The product was stored under insanitary conditions after shipment. Some bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent hairs.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 4, 1945. The Mid West Dairy Products Corporation, DuQuoin, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and converted into stock feed or destroyed, under the supervision of the Federal Security Agency.

8175. Adulteration of sugar. U. S. v. 95 Bags of Sugar. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16235. Sample No. 765-H.)

LIBEL FILED: May 24, 1945, Middle District of Georgia; libel amended May 28, 1945.

ALLEGED SHIPMENT: On or about January 10, 1945, from Tampa, Fla.

PRODUCT: 95 100-pound bags of sugar at Columbus, Ga., in the possession of the Muscogee Wholesale Grocers, Inc. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the product was contaminated with rodent urine.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been

held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 21, 1945. The Muscogee Wholesale Grocers, Inc., Columbus, Ga., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be re-refined under the supervision of the Food and Drug Administration.

8176. Adulteration of sugar. U. S. v. 12 Bags of Sugar. Default decree of condemnation. Product ordered sold. (F. D. C. No. 16751. Sample No. 23010-H.)

LIBEL FILED: June 30, 1945, Western District of Tennessee.

ALLEGED SHIPMENT: On or about April 14, 1945, from Franklin, La.

PRODUCT: 12 100-pound bags of sugar at Memphis, Tenn., in the possession of the Grennan Bakeries. The product had been stored under insanitary conditions after shipment. Rodent excreta and urine stains were observed on the bags. Examination showed that the product was contaminated with urine.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been stored under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, the purchaser to adopt such safeguards against its use for human consumption as were directed by the Federal Security Agency.

8177. Adulteration of sugar. U. S. v. 7 Bags of Sugar. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16747. Sample No. 23009-H.)

LIBEL FILED: June 30, 1945, Western District of Tennessee.

ALLEGED SHIPMENT: On or about January 16, 1945, from New Orleans, La.

PRODUCT: 7 100-pound bags of sugar at Memphis, Tenn., in the possession of the W. B. Mallory and Son Co. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the sugar was contaminated with urine.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 6, 1945. W. B. Mallory and Sons Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation and conversion of the unfit portion into stock feed, under the supervision of the Food and Drug Administration.

8178. Adulteration of corn sugar. U. S. v. 50 Bags of Corn Sugar. Default decree of forfeiture and destruction. (F. D. C. No. 15918. Sample No. 19110-H.)

LIBEL FILED: April 13, 1945, Western District of Wisconsin.

ALLEGED SHIPMENT: On or about October 18, 1944, from Cedar Rapids, Iowa.

PRODUCT: 50 100-pound bags of corn sugar at Wausau, Wis., in the possession of the Mathie Ruder Brewing Co. This product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the product contained rodent excreta and rodent hairs and was contaminated with rodent urine.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 28, 1945. No claimant having appeared, judgment of forfeiture was entered and the product was ordered destroyed.

DAIRY PRODUCTS

BUTTER

8179. Adulteration of butter. U. S. v. 19½ Cases of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16357. Sample No. 72494-F.)

LIBEL FILED: October 11, 1944, Western District of Tennessee.

ALLEGED SHIPMENT: On or about October 3, 1944, by the Sugar Creek Creamery Co., from St. Louis, Mo.

PRODUCT: 19½ 16-pound cases of butter at Memphis, Tenn. Analysis showed that the product contained mold.

LABEL, IN PART: (Carton) "Weona Farms Butter * * * Packed for Weona Food Stores, Inc. Memphis, Tenn."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy or decomposed animal substance.

DISPOSITION: November 13, 1944. The Sugar Creek Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be converted into refined butter oil, under the supervision of the Food and Drug Administration.

8180. Adulteration of butter. U. S. v. 9 Cases of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16676. Sample No. 24404-H.)

LIBEL FILED: June 6, 1945, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about May 22, 1945, by the Sugar Creek Creamery Co., from Russellville, Ark.

PRODUCT: 9 cases, each containing 32 1-pound cartons, of butter at New Orleans, La. Analysis showed that the product contained mold.

LABEL, IN PART: (Carton) "Cudahy's Sunlight Creamery Butter * * * The Cudahy Packing Co. Distributors * * * Chicago, Ill."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed animal substance.

DISPOSITION: August 3, 1945. The Sugar Creek Creamery Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into butter oil, under the supervision of the Federal Security Agency.

8181. Adulteration of butter. U. S. v. 5 Cartons (150 pounds) of Butter. Default decree of condemnation and destruction. (F. D. C. No. 16718. Sample No. 9590-H.)

LIBEL FILED: June 25, 1945, Western District of New York.

ALLEGED SHIPMENT: On or about June 13, 1945, by the Paul A. Schulze Co., from St. Louis, Mo.

PRODUCT: 5 30-pound cartons of butter at Buffalo, N. Y. Analysis showed that the product contained mold.

LABEL, IN PART: "Peerless Brand Butter Packed for Hickman, Coward & Wattles, Inc., Buffalo, N. Y."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy or decomposed animal substance.

DISPOSITION: July 24, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8182. Adulteration of butter. U. S. v. 93 Cases and 42 Cases of Butter. Default decrees of condemnation. Product ordered sold to rendering plants. (F. D. C. Nos. 12785, 17112. Sample Nos. 61705-F, 24419-H.)

LIBELS FILED: June 7, 1944, and on or about July 2, 1945, Eastern District of Louisiana; libel of June 7 amended October 13, 1944.

ALLEGED SHIPMENT: On or about May 25, 1944, and June 9, 1945, by the Denison Poultry and Egg Co., from Denison, Tex.

PRODUCT: 93 cases and 42 cases, each containing 32 1-pound cartons, of butter at New Orleans, La. Examination showed that both lots had a high mold mycelia count, and that 1 lot (93 cases) contained fly parts and other insect fragments, rodent hairs, feather barbules, and fragments of manure.

LABEL, IN PART: "Diamond W Brand Butter."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed animal substance and (one lot) of a filthy substance.

DISPOSITION: August 29, 1945. Default having been noted, judgments of condemnation were entered and the product was ordered sold to rendering plants, for use other than human consumption.

8183. Adulteration of butter. U. S. v. 1,600 1-Pound Prints of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16091. Sample No. 4325-H.)

LIBEL FILED: April 20, 1945, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about February 22, 1945, by the Nemaha Cooperative Creamery Association, from Sabetha, Kans.

PRODUCT: 1,600 1-pound prints of butter at Philadelphia, Pa.

LABEL, IN PART: "Montco Brand Sweet Cream Butter Distributed By Wm. Montgomery Co. Philadelphia, Pa.," or "Country Store Brand Butter * * * Distributed By John S. Morris & Son, Philadelphia, Pa."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a substance which, because of its offensive odor and flavor, was unfit for food.

DISPOSITION: April 23, 1945. John S. Morris & Son, Philadelphia, Pa., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be sold for purposes other than human consumption, under the supervision of the Food and Drug Administration.

8184. Adulteration of butter. U. S. v. 126 70-pound Cubes of Butter (and 2 other seizure actions against butter). Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 16721, 16725, 16736. Sample Nos. 26148-H, 26149-H, 31086-H.)

LIBELS FILED: May 29 and June 11, 1945, Southern District of California.

ALLEGED SHIPMENT: Between the approximate dates of May 16 and June 2, 1945, by the T & O Sales Co., from Amarillo, Tex.

PRODUCT: 188 70-pound cubes and 109 72-pound cubes of butter at Los Angeles, Calif. Analysis showed that 62 70-pound cubes of this butter contained insects, insect fragments, feather barbules, and hair fragments similar to rodent hair fragments; and that the remainder was deficient in milk fat.

LABEL, IN PART: (Portions) "Made By Wellington Creamery Wellington, Texas," or "Prices Creameries, Inc. 213 N. W. Main St. Portales, N. Mex."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), (portion) the product consisted in whole or in part of a filthy or decomposed substance; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; and (portion), Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: June 30 and July 20, 1945. The Wellington Creamery, Wellington, Tex., and Prices Creameries, Inc., El Paso, Tex., claimants, having consented to the entry of decrees, judgments of condemnation were entered. The product was ordered released under bond, the portion low in fat to be reworked to the proper fat content. The remainder was to be converted into refined butter oil, provided that examination disclosed that it would be fit for human consumption after refining; otherwise it was to be disposed of for purposes other than human consumption.

8185. Adulteration of butter. U. S. v. 50 Cases (2,500 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16328. Sample Nos. 13179-H, 13180-H.)

LIBEL FILED: May 12, 1945, Southern District of Ohio.

ALLEGED SHIPMENT: On or about May 1, 1945, by the Borden Dairy & Ice Cream Co., from Grand Rapids, Mich.

PRODUCT: 50 50-pound cases of butter at Dayton, Ohio.

LABEL, IN PART: "Butter Keep Cool."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: May 21, 1945. Borden's Finch Farms, Dayton, Ohio, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

8186. Adulteration of butter. U. S. v. 21 Cartons (1,050 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond.
(F. D. C. No. 16326. Sample Nos. 7052-H, 19031-H.)

LIBEL FILED: May 12, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about April 27, 1945, by Farmers Cooperative Wholesale, Inc., from Madison, S. Dak.

PRODUCT: 21 cartons of butter, each carton containing 50 1-pound prints, at New York, N. Y.

LABEL, IN PART: "Co-op Creamery Butter."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: May 23, 1945. Eastern Cooperative Wholesale, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

8187. Adulteration of butter. U. S. v. 16 Cartons (1,056 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond.
(F. D. C. No. 16325. Sample Nos. 19016-H, 7047-H.)

LIBEL FILED: April 27, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about April 11, 1945, by the Stephen Creamery Co., from Stephen, Minn.

PRODUCT: 16 cartons, each containing about 66 pounds, of butter at New York, N. Y.

LABEL, IN PART: "F. F. Lowenfels & Son New York."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: May 15, 1945. The Stephen Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

8188. Adulteration of butter. U. S. v. 35 Cubes (2,205 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond.
(F. D. C. No. 16350. Sample No. 90178-F.)

LIBEL FILED: January 8, 1944, Eastern District of Arkansas.

ALLEGED SHIPMENT: On or about July 26, 1944, by the O. G. Harp Poultry and Egg Co., from Shawnee, Okla.

PRODUCT: 35 cubes, each containing 63 pounds, of butter at Russellville, Ark.

LABEL, IN PART: "Creamery Butter."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: February 2, 1945. The Sugar Creek Creamery Co., Danville, Ill., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration. On April 17, 1945, by amended decree, the product was ordered converted into butter oil.

8189. Adulteration of butter. U. S. v. 19 Cartons (950 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond.
(F. D. C. No. 16352. Sample No. 19021-H.)

LIBEL FILED: April 25, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about April 14, 1945, by the Northwest Butter and Egg Co., from Minneapolis, Minn.

PRODUCT: 19 cartons, each containing 50 pounds, of butter at New York, N. Y.

LABEL, IN PART: "Clover Blossom Brand Butter Farmers Co-operative Creamery Association of Staples, Minnesota."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: May 9, 1945. The Vineland Butter and Egg Corp., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking.

S190. Adulteration of butter. U. S. v. 10 Cartons (630 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16354. Sample No. 19012-H.)

LIBEL FILED: April 24, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about April 9, 1945, by the Gordonsville Creamery, from Gordonsville, Minn.

PRODUCT: 10 cartons, each containing about 63 pounds, of butter at New York, N. Y.

LABEL, IN PART: "Vita Egg Farms * * * New York."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: May 25, 1945. The Vita Egg Farms, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

S191. Adulteration of Butter. U. S. v. 290 Pounds of Butter. Decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 16353. Sample No. 13263-H.)

LIBEL FILED: May 9, 1945, Eastern District of Kentucky.

ALLEGED SHIPMENT: On or about May 4, 1945, by the Tri-State Butter Co., from Cincinnati, Ohio.

PRODUCT: 290 pounds of butter at Newport, Ky.

LABEL, IN PART: "Rich Pasture Creamery Butter * * * Packed by The Tri-State Butter Co., Cincinnati, Ohio."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: June 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

S192. Adulteration of butter. U. S. v. 15 Cartons (960 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16355. Sample No. 7059-H.)

LIBEL FILED: May 23, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about May 4, 1945, by the New Ulm Dairy, from New Ulm, Minn.

PRODUCT: 15 64-pound cartons of butter at New York, N. Y.

LABEL, IN PART: "Butter Distributed by F. F. Lowenfels & Son 330 New York."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: June 7, 1945. The New Ulm Dairy, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

S193. Adulteration of butter. U. S. v. 22 Cartons (1,452 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16088. Sample Nos. 5679-H, 5680-H.)

LIBEL FILED: April 11, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about March 14, 1945, by the Red Lake Falls Creamery, from Red Lake Falls, Minn.

PRODUCT: 22 cartons, each containing approximately 66 pounds, of butter at New York, N. Y.

LABEL, IN PART: "Butter * * * Penn Blue Ridge."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: May 25, 1945. Alex and Irene Eisenberg, trading as the Penn Blue Ridge Dairies, claimants, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released

under bond for reworking under the supervision of the Food and Drug Administration.

8194. Adulteration of butter. U. S. v. 9 Cubes (540 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16092. Sample No. 19011-H.)

LIBEL FILED: April 18, 1945, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about April 6, 1945, by the St. Stephen Cooperative Creamery, Rice, Minn.

PRODUCT: 9 60-pound cubes of butter at Philadelphia, Pa.

LABEL, IN PART: "Butter Distributed by C. G. Heyd & Co., Philadelphia, Pa."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: April 30, 1945. C. G. Heyd & Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

8195. Adulteration of butter. U. S. v. 52 Cartons of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16677. Sample No. 17864-H.)

LIBEL FILED: May 29, 1945, Northern District of Illinois.

ALLEGED SHIPMENT: On or about May 10, 1945, by Boote's Hatcheries, from Worthington, Minn.

PRODUCT: 52 cartons, each containing 64 pounds, of butter at Chicago, Ill.

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: July 6, 1945. Boote's Hatcheries and Packing Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

8196. Adulteration of butter. U. S. v. 155 Cartons (7,750 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16680. Sample No. 19043-H.)

LIBEL FILED: June 1, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about May 19, 1945, by the Redwood Creamery, from Redwood Falls, Minn.

PRODUCT: 155 50-pound cartons of butter at New York, N. Y.

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: June 20, 1945. The Redwood Creamery, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

8197. Adulteration of butter. U. S. v. 43 Cartons (2,709 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16719. Sample No. 7101-H.)

LIBEL FILED: May 25, 1945, District of New Jersey.

ALLEGED SHIPMENT: On or about May 1, 1945, by the Breda Creamery, from Breda, Iowa.

PRODUCT: 43 63-pound cartons of butter at Newark, N. J.

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: June 7, 1945. Ritter & Sussman, Newark, N. J., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

8198. Adulteration of butter. U. S. v. 174 Boxes (9,048 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16731. Sample Nos. 7403-H, 7405-H.)

LIBEL FILED: June 27, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about June 11, 1945, by P. W. & C. V. Dake, East Berkshire, Vt.

PRODUCT: 174 boxes, each containing about 52 pounds of butter, at New York, N. Y.

LABEL, IN PART: "Butter * * * Distributed by The Borden Company New York."

VIOLATION CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: July 11, 1945. The Borden Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

8199. Adulteration and misbranding of butter. U. S. v. 17 Cartons (1,054 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16090. Sample No. 19205-H.)

LIBEL FILED: April 11, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about March 24, 1945, by the Ethan Dairy Products Co., from Ethan, S. Dak.

PRODUCT: 17 cartons, each containing approximately 62 1-pound, unlabeled prints, of butter at New York, N. Y.

LABEL, IN PART: (Carton) "Distributed by Harry Atlas Sons New York."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

Misbranding, Section 403 (e) (1), the product failed to bear a label declaring the name and place of business of the manufacturer, packer, or distributor; and, Section 403 (e) (2), it failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: May 4, 1945. The Ethan Dairy Products Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked so as to conform with the law, under the supervision of the Food and Drug Administration.

BUTTERMILK AND CHEESE

8200. Adulteration of buttermilk. U. S. v. 20 Barrels and 85 Kegs of Buttermilk. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 16334. Sample No. 2764-H.)

LIBEL FILED: June 6, 1945, Northern District of West Virginia.

ALLEGED SHIPMENT: On or about March 23, 1945, by I. H. Nestor, from Nashville, Tenn.

PRODUCT: 20 472-pound barrels and 85 95-pound kegs of buttermilk at Wardensville, W. Va.

LABEL, IN PART: "Nesco Brand Buttermilk."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (4), starch had been added to the article so as to make it appear better and of greater value than it was.

Misbranding, Section 403 (a), the statements on the label, "Nesco Brand Butter Milk Equal to Any—Superior to Many Pure Creamery Buttermilk Solids 27%—Protein 10%—Fat 2% * * * Condensed to a Semi-Solid * * * It is All Pure Buttermilk," were false and misleading since the article was not pure condensed buttermilk but contained added starch and contained less than the percentage of total solids, protein, and fat declared; and, Section 403 (b), the article was offered for sale under the name of another food.

DISPOSITION: July 10, 1945. The Nashville Buttermilk Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be reprocessed and relabeled under the supervision of the Food and Drug Administration.

8201. Adulteration and misbranding of condensed buttermilk. U. S. v. 11 Barrels of Condensed Buttermilk. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16359. Sample No. 4232-H.)

LIBEL FILED: June 13, 1945, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about April 6, 1945, by the Buttermilk Co. of New England, from Nashville, Tenn.

PRODUCT: 11 barrels of condensed buttermilk at York, Pa. Examination showed that the product contained from 6.75 to 7.37 percent protein; and

also that it contained starch, the addition of which gave it more body and the appearance of a larger percentage of solids from buttermilk, and thus of a greater value as food.

LABEL, IN PART: "Yankee Brand Condensed Buttermilk Minimum Analysis Protein . . . 8%."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (4), starch had been added to and mixed and packed with the product so as to make it appear better and of greater value than it was.

Misbranding, Section 403 (b), the product was offered for sale under the name of another food; and, Section 403 (a), the statements "Protein . . . 8%" and "Condensed Buttermilk" were false and misleading as applied to an article which did not contain the declared amount of protein and which contained added starch.

DISPOSITION: August 8, 1945. The Nashville Buttermilk Co., Nashville, Tenn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling in compliance with the law, under supervision of the Federal Security Agency.

8202. Adulteration of processed lunch loaf and processed cheese. U. S. v. Hygrade Food Products Corporation. Plea of guilty. Fine, \$1,500. (F. D. C. No. 15570. Sample Nos. 34939-F, 84872-F, 84874-F.)

INFORMATION FILED: September 5, 1945, Southern District of New York, against the Hygrade Food Products Corporation, New York, N. Y.

ALLEGED SHIPMENT: On or about October 5 and 9, 1944, from the State of New York into the States of Florida and Pennsylvania.

LABEL, IN PART: "Shelby Brand Provolone Type Process Lunch Loaf Distributed by Dunlevy-Franklin Corporation Pittsburgh, Pa.," or "Hygrade Brand Pasteurized Process Cheese Manufactured by Hygrade Food Products Corporation New York City."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances, insect fragments, a maggot, mites, rodent hair fragments, cat hair fragments, human hair fragments, feather fragments, mold clots, wood splinters, paint fragments, rind fragments, charred cheese fragments, and metal particles; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: September 13, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$500 on each of 3 counts, a total fine of \$1,500.

8203. Adulteration and misbranding of Cheddar cheese. U. S. v. Concordia Creamery Co. Plea of guilty. Fine, \$100 and costs. (F. D. C. No. 14315. Sample No. 66653-F.)

INFORMATION FILED: July 18, 1945, Western District of Missouri, against the Concordia Creamery Co., a corporation, Concordia, Mo.

ALLEGED SHIPMENT: On or about June 15, 1944, from the State of Missouri into the State of Kansas.

LABEL, IN PART: "Pasteurized Missouri Cheddar Cheese."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), a product containing more than 39 percent of moisture and less than 50 percent of milk fat had been substituted for Cheddar cheese.

Misbranding, Section 403 (e) (1), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; and, Section 403 (g) (1), it failed to conform to the definition and standard of identity for Cheddar cheese, since it contained more than 39 percent of moisture and its solids contained less than 50 percent of milk fat.

DISPOSITION: August 9, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$50 on each of 2 counts, a total fine of \$100 and costs.

8204. Adulteration of Cheddar cheese. U. S. v. 84 Boxes of Cheddar Cheese Default decree of condemnation. Product ordered sold to be converted into grease. (F. D. C. No. 16294. Sample No. 5741-H.)

LIBEL FILED: May 5, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about April 25, 1945, by the Hygrade Food Products Corporation, from Plainfield, Iowa.

PRODUCT: 84 boxes, each containing about 70 pounds, of Cheddar Cheese at New York, N. Y.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance, moldy cheese, and was otherwise unfit for food because of its yeasty odor.

DISPOSITION: August 9, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold to be denatured and converted into nonedible grease.

8205. Adulteration of Cheddar cheese. U. S. v. 379 Cartons of Cheddar Cheese. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16162. Sample No. 763-H.)

LIBEL FILED: May 23, 1945, Northern District of Georgia.

ALLEGED SHIPMENT: On or about January 4, 1945, from Uniontown, Ala.

PRODUCT: 379 cartons of Cheddar cheese at Atlanta, Ga., in the possession of the Atlantic Co., Plant No. 1. The article was stored under insanitary conditions after shipment. The cheese had been gnawed by rodents, and rodent nests, some containing dead mice and others containing live mice, were found on the cheese. Rodent excreta was found on the surface of the cheese and in the gnawed holes.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 25, 1945. The Kraft Cheese Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation, the edible portion to be reclaimed and the unfit portion to be denatured for use as animal feed, under the supervision of the Food and Drug Administration.

EGGS

8206. Adulteration of frozen whole eggs. U. S. v. 123 Cartons of Frozen Whole Eggs. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 16056. Sample No. 11527-H.)

LIBEL FILED: April 23, 1945, District of Maine.

ALLEGED SHIPMENT: On or about April 29, 1944, by the Hansen Packing Co., from Eaton Rapids, Mich.

PRODUCT: 123 30-pound cartons of frozen whole eggs at Portland, Maine.

LABEL, IN PART: (Cartons) "Mixed whole eggs * * * 19805."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

DISPOSITION: May 16, 1945. The owner of the product having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

8207. Adulteration of frozen whole eggs. U. S. v. 155 Cartons and 199 Cartons of Frozen Whole Eggs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 16082, 16083. Sample Nos. 11474-H, 11475-H.)

LIBELS FILED: April 30, 1945, District of Massachusetts.

ALLEGED SHIPMENT: On or about April 29, 1944, by the Hansen Packing Co., from Eaton Rapids, Mich.

PRODUCT: 155 30-pound cartons of frozen eggs at New Bedford, Mass., and 199 30-pound cartons of frozen eggs at Brockton, Mass.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

DISPOSITION: May 15, 1945. The Hartlett Varney Co., Boston, Mass., claimant, having admitted the allegations of the libels, and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and denatured under the supervision of the Food and Drug Administration.

8208. Adulteration of frozen eggs. U. S. v. 799 Cartons of Frozen Eggs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 16112, 16113. Sample No. 5833-H.)

LIBEL FILED: May 7, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about March 14, 1945, by the Iowa Pacific Butter and Egg Co., from Ottumwa, Iowa.

PRODUCT: 799 cartons, each containing 30 pounds, of frozen whole eggs at New York, N. Y.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: May 19, 1945. Pinebrook Farms, Inc., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and denatured or destroyed under the supervision of the Food and Drug Administration.

8209. Adulteration of frozen whole eggs. U. S. v. 436 Cans of Frozen Whole Eggs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16114. Sample No. 5832-H.)

LIBEL FILED: May 7, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about March 31, 1945, by Wenk Brothers, Madison, S. Dak.

PRODUCT: 436 30-pound cans of frozen whole eggs at New York, N. Y.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: May 19, 1945. Wenk Brothers, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation of the good portion from the bad, under the supervision of the Food and Drug Administration, the bad portion to be denatured so that it could not be used for human consumption.

8210. Adulteration of frozen eggs. U. S. v. 13 Cans of Frozen Eggs. Default decree of condemnation. Product ordered denatured for use as fertilizer. (F. D. C. No. 16186. Sample No. 31643-H.)

LIBEL FILED: May 19, 1945, Southern District of California.

ALLEGED SHIPMENT: On or about April 30, 1945, by Merchants Produce, from Butte, Mont.

PRODUCT: 13 cans, of various sizes, containing frozen eggs at Los Angeles, Calif.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: August 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered denatured for conversion into fertilizer, under the supervision of the Federal Security Agency.

8211. Adulteration of shell eggs. U. S. v. 600 Cases of Shell Eggs. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16940. Sample No. 9378-H.)

LIBEL FILED: July 26, 1945, Western District of New York.

ALLEGED SHIPMENT: On or about July 16, 1945, by Goodrich and Shackelford, from Leroy, Minn.

PRODUCT: 600 cases of shell eggs at Buffalo, N. Y.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed and moldy eggs.

DISPOSITION: July 20, 1945. The claimant having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be candled and the rejects destroyed under the supervision of the Federal Security Agency.

FISH AND SHELLFISH

8212. Adulteration of frozen cod fillets. U. S. v. 58 Cartons of Frozen Cod Fillets. Default decree of condemnation and destruction. (F. D. C. No. 16322. Sample Nos. 6821-H, 7102-H.)

LIBEL FILED: June 1, 1945, District of New Jersey.

ALLEGED SHIPMENT: On or about May 15, 1945, by Golden, Mandelbaum & Miller, Inc., from New York, N. Y.

PRODUCT: 58 20-pound cartons of frozen cod fillets at Newark, N. J.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: July 13, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8213. Adulteration of frozen cod fillets. U. S. v. 46 Boxes of Frosted Cod Fillets. Default decree of condemnation and destruction. (F. D. C. No. 15915. Sample No. 6000-H.)

LIBEL FILED: April 14, 1945, Northern District of New York.

ALLEGED SHIPMENT: On or about February 1, 1945, by the Gloucester Fresh Fish Co., from Boston, Mass.

PRODUCT: 46 15-pound boxes of frozen cod fillets at Syracuse, N. Y.

LABEL, IN PART: (Fillet wrapper) "Northeast Brand Frosted Cod Fillets."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: May 15, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8214. Adulteration of frozen red perch fillets. U. S. v. 978 Cartons of Frozen Red Perch Fillets. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16929. Sample Nos. 23775-H, 24460-H.)

LIBEL FILED: July 31, 1945, Southern District of Texas.

ALLEGED SHIPMENT: On or about June 21, 1945, by the Atlantic Fish and Oyster Co., from Chicago, Ill.

PRODUCT: 978 10-pound cartons of frozen red perch fillets at Houston, Tex.

LABEL, IN PART: "North Atlantic Quickly Frozen Fillets."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of parasites and decomposed fish fillets.

DISPOSITION: August 1, 1945. The Atlantic Fish and Oyster Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation of the good portion from the bad under the supervision of the Food and Drug Administration.

8215. Adulteration of frozen rosefish fillets. U. S. v. 139 Boxes of Frozen Rosefish Fillets. Default decree of condemnation and destruction. (F. D. C. No. 15944. Sample No. 16823-H.)

LIBEL FILED: April 20, 1945, Eastern District of Wisconsin.

ALLEGED SHIPMENT: On or about August 30, 1944, by the Gorton-Pew Fisheries Co., Ltd., from Gloucester, Mass.

PRODUCT: 139 10-pound boxes of frozen rosefish fillets at Milwaukee, Wis.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

DISPOSITION: May 17, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8216. Adulteration of frozen rosefish fillets. U. S. v. 1,057 Boxes of Frozen Rosefish Fillets. Default decree of condemnation and destruction. (F. D. C. No. 16024. Sample Nos. 13849-H, 13850-H.)

LIBEL FILED: May 9, 1945, Northern District of Ohio.

ALLEGED SHIPMENT: On or about April 21, 1945, by the American Fish Co., Boston, Mass.

PRODUCT: 1,057 10-pound boxes of frozen rosefish fillets at Cleveland, Ohio.

LABEL, IN PART: "Fresh Frozen Rosefish Packed By Empire Fish Co. Gloucester, Mass."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of parasites.

DISPOSITION: August 1, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8217. Adulteration of frozen rosefish. U. S. v. 1,043 Boxes of Frozen Rosefish. Default decree of condemnation and destruction. (F. D. C. No. 16861. Sample Nos. 13882-H, 13884-H.)

LIBEL FILED: On or about July 26, 1945, Northern District of Ohio.

ALLEGED SHIPMENT: On or about June 26, 1945, by the American Fillet Co., from Gloucester, Mass.

PRODUCT: 1,043 10-pound boxes of frozen rosefish at Cleveland, Ohio.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: August 18, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8218. Adulteration of sardines. U. S. v. 498 Cases of Sardines. Default decree of condemnation and destruction. (F. D. C. No. 15922. Sample No. 22922-H.)

LIBEL FILED: April 18, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about February 23, 1945, by the Martinez Food Canners, Ltd., from Martinez, Calif.

PRODUCT: 498 cases, each containing 48 15-ounce cans, of sardines at St. Louis, Mo.

LABEL, IN PART: "Seine Brand California Sardines in Tomato Sauce."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: May 15, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8219. Adulteration of frozen whitefish. U. S. v. 233 Boxes of Whitefish. Default decree of condemnation and destruction. (F. D. C. No. 16048. Sample No. 5823-H.)

LIBEL FILED: April 23, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about March 31, 1945, by the Manitoba Fisheries, Ltd., Winnipeg, Manitoba, Canada.

PRODUCT: 233 boxes, each containing from 117 to 135 pounds, of whitefish at New York, N. Y.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of parasitic worms.

DISPOSITION: May 23, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed, with the exception of 10 boxes, which were ordered delivered to the Food and Drug Administration.

8220. Adulteration of frozen butterfly whiting. U. S. v. 1,331 Cartons of Frozen Butterfly Whiting. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16984. Sample No. 9641-H.)

LIBEL FILED: August 3, 1945, Western District of New York.

ALLEGED SHIPMENT: On or about July 21, 1945, by the New England Fillet Co., Inc., from Boston, Mass.

PRODUCT: 1,331 10-pound cartons of frozen butterfly whiting at Buffalo, N. Y.

LABEL, IN PART: "B F Whiting * * * Seacrest Brand Frozen Fillets."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: August 6, 1945. The New England Fillet Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and disposed of in compliance with the law, under the supervision of the Food and Drug Administration.

8221. Adulteration of scaled whiting. U. S. v. 108 Cartons of Scaled Whiting. Default decree of condemnation and destruction. (F. D. C. No. 15919. Sample No. 20457-H.)

LIBEL FILED: April 16, 1945, District of Nebraska.

ALLEGED SHIPMENT: On or about December 6, 1944, by the B. A. Griffin Co., Inc., from Sandwich, Mass.

PRODUCT: 108 cartons of scaled whiting at Omaha, Nebr.

LABEL, IN PART: "Frostopac Brand Cleaned Headless * * * H&G Scaled Whiting."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: June 8, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

S222. Adulteration of crab meat. U. S. v. 2 Barrels of Crab Meat. Default decree of condemnation and destruction. (F. D. C. No. 16726. Sample No. 778-H.)

LIBEL FILED: June 27, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about June 23, 1945, by United Seafood Co., from Apalachicola, Fla.

PRODUCT: 2 barrels, each containing 100-pounds, of crab meat at New York, N. Y. This product was contaminated with fecal *Esch. coli*, and a portion was decomposed.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy animal substance.

DISPOSITION: July 26, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

S223. Adulteration of canned oysters. U. S. v. 179 Cases and 49 Cases of Canned Oysters. Tried to the court. Judgment ordering portion of product released and remainder condemned and destroyed. Judgment affirmed on appeal. (F. D. C. Nos. 10034, 10215. Sample Nos. 28975-F, 29085-F, 29090-F.)

LIBELS FILED: May 29 and July 9, 1943, Middle District of Georgia.

ALLEGED SHIPMENT: On or about April 12, 1943, by the L. C. Mays Co., from Biloxi, Miss.

PRODUCT: 179 cases of oysters at Athens, Ga., and 49 cases of oysters at Elberton, Ga., each case containing 48 7½-ounce cans.

LABEL, IN PART: (Cans) "C. C. Brand Oysters * * * Packed By C. C. Company Biloxi, Miss."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: On December 6, 1943, the cases having been consolidated and the C. C. Co., Biloxi, Miss., claimant, having filed an answer denying that the product was adulterated, the case was tried to the court without a jury. On December 29, 1943, the court made its findings that the product, with the exception of a portion identified by a certain code number, was adulterated. Judgment was thereupon entered, ordering that the fit portion be released and the remainder condemned and destroyed. Subsequently, the claimant having filed an appeal, the Circuit Court of Appeals for the 5th Circuit, on October 30, 1944, handed down the following memorandum opinion, reversing the district court and remanding the case with directions to dismiss the libel:

LEE, *Circuit Judge*: "The appellee by separate proceedings in rem sought to condemn two interstate shipments of canned oysters packed by appellant at its plant in Biloxi, Mississippi. One shipment of 179 cases, each containing 48 cans of 'C. C. Brand Oysters,' was consigned to Webb-Crawford Company, Athens, Georgia, and the other shipment of 49 cases, each containing 48 cans of 'C. C. Brand Oysters,' was consigned to Thornton Grocery Company, Elberton, Georgia. The actions, brought under the Federal Food, Drug and Cosmetic Act, 21 U. S. C. A., Section 301, et seq., were consolidated for trial and tried to the court without a jury. The court found that one lot of oysters, code number 4J70, was not adulterated, was fit for food, and ordered it released. The remaining lots were found adulterated, unfit for food, and were ordered destroyed. The sole issue is whether the oysters were adulterated in violation of 21 U. S. C. 342 (a) (3) in that they were wholly or partially decomposed.

"The Federal Food, Drug and Cosmetic Act, after providing for condemnation proceedings by libel, with reference to procedure, provides: 'The article shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury . . .' 21 U. S. C. Section 334 (b).

"The rule in this court in admiralty cases is that the hearing on appeal is de novo, and that it is the appellate court's duty to review the whole case and

make such decree ought to have been made. *Pavlis, et al. vs. Jackson*, 131 F. (2) 362; *Coryeli vs. Phipps*, 128 F. (2) 702, 704.

"Where forfeiture of private property is sought, as is here sought by the Government, 'a higher degree of proof than a mere preponderance, a mere balance of evidence in favor of the Government, is required. It is necessary in cases like this that the Government should establish by clear and satisfactory evidence that its cause has been made out.' *Van Camp Sea Food Company vs. United States*, 82 F. (2) 365.

"To prove its case, the Government offered the testimony of two officers: Dr. Albert C. Hunter, Chief of the Bacteriological Division of the Food, Drug and Cosmetic Administration; and Raymond L. Vandever, Chief Chemist in charge of the New Orleans office of the same Administration. Both witnesses examined the oysters organoleptically, that is, smelled them. Each can was carefully opened, the liquid drained off into a pan, and 'then the oysters were very carefully smelled and examined.' Both agreed that in appearance the oysters were perfectly normal.

"Dr. Hunter examined a total of 168 sample cans from the Webb-Crawford Company shipment and found 12 cans, or 7%, definitely rotten and 4 cans, or about 2%, with some degree of decomposition; the remaining cans he classed as passable. He examined 48 sample cans from the Thornton Grocery Company shipment and found one can definitely decomposed. The 'off' oysters were from code numbers 4J80 and 4J90. Oysters from code number 4J70 were normal in appearance and smell.

"Mr. Vandever examined 24 sample cans of oysters from the Webb-Crawford shipment and 48 cans from the Thornton Grocery Company shipment. Both sample lots contained cans from each code number. Of the 24 samples examined, he pronounced about 24% bad; and of the 48 samples examined, he pronounced 14% rotten, 4% slightly decomposed.

"The evidence makes clear, however, that oysters from sandy bottoms, from mud bottoms, and from reefs near the mouth of the Mississippi River are packed in appellant's plant at Biloxi, Mississippi; and that the odor of an oyster or of any other sea food depends on the area from which it is caught. An oyster from a sandy bottom has an odor different from that of an oyster from a mud bottom, and an oyster from near the mouth of the Mississippi River has an odor reflecting contact with sulphur, not found in oysters from sandy or mud bottoms. This characteristic of oysters was testified to by every witness introduced by either party who gave evidence respecting the fitness of the oysters here involved for food.

"Dr. Hunter also admitted that whether the odor of an oyster reflected good or bad condition was a matter of personal judgment. Mr. Vandever, who testified that he trained his sense of smell by using experimental packs of oysters 'packaged at different stages of decomposition,' admitted that men who daily handle sea foods for a livelihood develop through their work a high sense of smell.

"Following the seizure of the oysters, appellant obtained 164 sample cans and had them examined by the research department of the American Can Company Southern, in New Orleans. The Government offered in evidence a copy of the report of that examination, in which it was stated that the appearance of the oysters was comparable to that of oysters in normal cans, but that of the 60 cans coded 4J80 and of the 19 cans coded 4J90, 'eleven cans in each lot had an abnormal odor comparable to that associated with oysters which have undergone partial decomposition before canning.' Upon the suggestion of the trial judge, the depositions of Mr. Lamberton and Mr. Riester, employees of the American Can Company who had made the test, were taken. In explanation of the language in the report, Mr. Lamberton said: 'I believe that the statement there intended not to show that the oysters were decomposed, but, as stated, there was an odor there which we have associated with oyster decomposition. The particular oysters in those samples themselves, we were remarking only about the odor of the oysters.'

"Lamberton and Riester in making their test opened the cans, smelled the liquid, poured off the liquid, placed the oysters on a rack and smelled them, then crushed the oysters in the hands and smelled them. Only when the oysters were crushed in the hands was there an 'off' odor. They testified as follows:

"Q. 'In checking code 4J70 in regard to appearance and odor, the cans were normal in every respect?'

"A. 'Yes, sir.'

"Q. 'Both from a standpoint of odor and after crushing?'

"A. 'Yes, sir.'

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"Q. 'What was the only time with reference to code 4J80 that any abnormal or off odor was noticed, Mr. Riester?'

"A. 'When the oysters were picked up in the hand and crushed and smelled *with the nose close to the oyster.*'

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"Q. 'With reference to Code 4J90, were you able to detect abnormal or off odor when these cans were opened?'

"A. 'Only by crushing.'

"Neither Lamberton nor Riester could say what caused the odor in the oysters they crushed.

"Mr. Lamberton said [in answer to the following question] :

"Q. 'You still could not state, Mr. Lamberton, whether the odor that you got came from the ground where the oysters were feeding, which was on the mud flats in the sulphur bottom, or whether it came from decomposition?'

"A. 'I could not state that. I defined the odor as similar to decomposition, but could not say definitely that I know it was decomposition or anything else.'

"Mr. Riester said [in answer to the following question] :

"Q. 'In these cases where you have not been able to detect the odor until after you have crushed an oyster and crushed its intestines and its body, it is possible, is it not, for any off odor or abnormal odor to come from whatever food the oyster has eaten while on the bottom of the water?'

"A. 'That is correct.'

"Appellant's witnesses were all identified with the oyster-packing business in and around Biloxi, with years of experience in that business. Elmer Williams was with the DeJean Packing Company, one of the largest independent plants in the United States, and had been in its employ twenty-two to twenty-three years. Nick Mavar was with the Mavar Shrimp & Oyster Company, another large company. C. A. Delacruz was mayor of Biloxi and manager of the Southern Shell Fish Company, owned by the Wesson Oil Company, and had been in the sea food business some thirty-five years. William Cruso was president of the C. C. Company, appellant, and had been in the oyster-packing business since the close of the first World War. All of them told of odors given off by oysters caught on sandy bottoms, on mud bottoms, and from near the mouth of the Mississippi River where sulphur was present. All of them stated that an oyster from a sandy bottom had a normal odor; from a mud bottom, a slightly decomposed odor; and from near the mouth of the Mississippi River, a sulphur odor. They stated that the method of packing oysters and the equipment used by appellant were sanitary and standard. According to the testimony of these witnesses, each boat-load of oysters packed at the packing plants were coded separately; sometimes the boat-load came from one bed, oftentimes from several different beds; the boats went out and returned on schedule and were manned by experienced crews who, receiving no pay for bad oysters, consequently watched the catch and brought them in before deterioration; and the oysters were inspected as they were unloaded and inspected again as they passed through the plant. All the witnesses were positive that few if any bad oysters were ever packed in cans.

"At the request of appellant, a cross section of the canned oysters was tested during the trial. One can from code 70, four cans from code 80, and twenty-four cans from code 90, were examined organoleptically by all of the witnesses who testified in court. Dr. Hunter pronounced five of the twenty-four cans from code 90 as decomposed; Mr. Vandever found one can of four cans from code 80 decomposed, and six cans of the twenty-four cans from code 90 decomposed or partially so. Appellant's witnesses, all experienced oyster packers, were unanimous and positive in pronouncing the oysters good canned oysters, including those in the cans referred to by Dr. Hunter and Mr. Vandever as decomposed or partially so. Mr. Mavar offered to eat the oysters said to be decomposed, and Mr. Cruso did eat two of them.

"Where a food product is tested for imperfections by the sense of smell, the testimony of men who have had years of experience in handling and processing such product is entitled to at least as much weight as that of Government experts trained by use of "experimental packs" to differentiate between the good and the bad. No test other than that of smell was made by the Govern-

ment experts, nor did they offer any explanation why other tests were not made. Upon consideration of the whole testimony, we think that the government has failed to meet the burden resting upon it.

"The judgment appealed from is reversed, and the cause is remanded with direction to dismiss the libel."

A petition for a rehearing was filed by the Government, and the court, on January 20, 1945, handed down the following memorandum opinion, setting aside its previous judgment and affirming the judgment of the district court:

LEE, *Circuit Judge*: "When this case was submitted to this court on appeal it was asserted in the briefs for both parties that, since the action was to compel a forfeiture, the burden was upon the Government to prove by clear and convincing evidence that the oysters shipped in commerce as food were decomposed in whole or in part. Counsel on the argument stated that this court heard the case in the manner of admiralty appeals by reason of the statutory provision that, in condemnation proceedings under the Federal Food, Drug, and Cosmetic Act, the procedure should conform as nearly as may be to the procedure in admiralty.

"Acting under these assurances, this court reviewed the evidence in the light of these principles and reached the conclusion that, while there was evidence of a substantial character indicating that the oysters were partially decomposed, the proof on this material issue was not clear and convincing. In our opinion rendered October 30, 1944, 145 F. (2) 462, the judgment accordingly was reversed and the cause remanded with direction that the libel be dismissed.

"Upon petition for rehearing the Government with apologies retracted its former representations relative to the burden of proof, taking the position that it was only obliged to prove its case by a preponderance of the evidence in the trial court, and that the scope of review on appeal was limited, as in other civil cases, by Rule 52 of the Federal Rules of Civil Procedure requiring that the findings of fact of the trial court be not set aside unless clearly erroneous. These matters being vital to a determination of the appeal, we granted a rehearing.

"Though such condemnation proceedings conform, as nearly as may be, to the procedure in admiralty in the trial court, it is expressly provided by Rule 81 (a) (2) of the Federal Rules of Civil Procedure that said rules govern appeals in proceedings for forfeiture of property for violation of a statute of the United States. Cf. *443 Cases of Egg Product v. United States*, 226 U. S. 172. Therefore the case on appeal is not heard anew, but the findings of fact of the trial court must be accepted as true unless they are clearly erroneous. Rule 52 (a), Federal Rules of Civil Procedure.

"It is the general rule that statutes imposing forfeitures, being penal in nature, are to be strictly construed in favor of the defendant.¹ The requirement in condemnation cases of a higher degree of proof than a mere preponderance is a natural corollary of this rule of construction.² But in *United States v. Stowell*, 133 U. S. 1, it was held that statutes enacted for the public good and to suppress a public wrong, although they impose penalties or forfeitures, are not to be construed strictly in favor of the defendant but should be fairly and reasonably construed so as to carry out the intention of Congress.³ The Federal Food, Drug, and Cosmetic Act was enacted in the interests of the public welfare to protect the public health, and courts must give it effect according to its terms.⁴

"In our prior opinion we set forth the evidence in detail. It is readily apparent from that discussion that there was substantial evidence to warrant the finding of the trial court that the oysters were in part decomposed. The decree of condemnation entered thereon was therefore correct.⁵ The judgment heretofore entered herein is set aside and the judgment appealed from is affirmed."

¹ *Farmers' & M. National Bank v. Dearing*, 91 U. S. 29; *United States v. One Ford Coach*, 307 U. S. 219; *United States v. Lacher*, 134 U. S. 624.

² *Van Camp Sea Food Company v. United States*, 82 F. (2) 365.

³ See also *Taylor v. United States*, 3 How. 197; *United States v. State Bank*, 6 Pet. 29; *Beaston v. Farmers' Bank*, 12 Pet. 102.

⁴ *United States v. Antikamnia Company*, 231 U. S. 654; *United States v. Lexington Mill Company*, 232 U. S. 399, 409; *United States v. Dotterweich*, 320 U. S. 277; *A. O. Anderson & Company v. United States*, 284 F. 542; *United States v. 48 Dozen Packages of Gauze*, 94 F. (2) 641; *United States v. Research Laboratories*, 126 F. (2) 42.

⁵ 21 U. S. C. A. Secs. 342 (a) (3) and 334 (a).

8224. Adulteration of canned oysters. U. S. v. 74 Cases of Canned Oysters. Motion for removal denied. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 10373. Sample No. 35451-F.)

LIBEL FILED: August 11, 1943, Western District of South Carolina.

ALLEGED SHIPMENT: On or about May 20, 1943, by the L. C. Mays Co., Inc., from Biloxi, Miss.

PRODUCT: 74 cases, each containing 48 7½-ounce cans, of oysters at Greenville, S. C.

LABEL, IN PART: "C. C. Brand Oysters Drained Weight 7½ Oz. Packed by C. C. Company Biloxi, Miss."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: The C. C. Company, Biloxi, Miss., claimant, filed an answer on September 28, 1943, denying that the product was adulterated, and on April 3, 1944, filed a motion to transfer the case to the District of Mississippi. Hearing was held on the motion, and on June 29, 1944, the court dismissed the motion and handed down the following memorandum opinion:

C. C. WYCHE, *District Judge*: "The above libel proceeding is based upon the charge of adulteration of oysters, and is now before me upon the motion of C C Company, intervening claimant, to transfer the cause from this district to the Southern District of Mississippi, where claimant's principal place of business is located.

"Section 304 (a) and (b) of the Federal Food, Drug and Cosmetic Act (21 USCA 334 (a) and (b)), sets forth the authority conferred upon district courts to proceed upon or to transfer seizure actions from one district to another.

"The pertinent portion of Section 304 (a) deals exclusively with the removal of libels for condemnation based upon the charge of misbranding. It authorizes removal, with two specified types of exceptions, of a single libel for condemnation where the charge is misbranding.⁶

"The pertinent portion of section 304 (b) deals exclusively with the consolidation and removal of multiple libels pending in two or more jurisdictions and involving the same claimant and the same issues of adulteration or misbranding.⁷

"It will be seen, therefore, that the Act has expressly conferred upon the district courts the authority to consolidate and/or transfer three types of libel proceedings, (1) a single libel based upon a misbranding charge (with some exceptions); (2) multiple libels based upon a misbranding charge; (3) multiple libels based upon an adulteration charge. The act is silent with respect to the authority of a district court to transfer a single libel based upon an adulteration charge, and such is the nature of the libel involved in this motion.

⁶ See the final Congressional Conference Report on the Act, House Rep. No. 2716, 75th Cong., 3d Sess., Statement of the Managers on the Part of the House, page 22:

"Change of venue when only one libel permitted.—Under the House amendment where the number of libels for misbranding is limited to one proceeding, such proceeding shall on application of the claimant seasonably made be removed for trial to a district in a State contiguous to the State of the claimant's principal place of business; such district to be stipulated between the parties, or, if they cannot agree, to be designated by the court to which the application is made. Under the conference agreement the change of venue is to any district agreed upon by the parties, or, if they cannot agree within a reasonable time, the court within which the libel is pending (after reasonable notice and opportunity for hearing to the United States attorney) shall by order, unless good cause to the contrary is shown, provide for the removal of the case to a district of reasonable proximity to the claimant's principal place of business." [Italics added.]

⁷ The final Conference Report on the Act, page 23, is as follows:

"Consolidation of multiple libels.—Under the House amendment when libel proceedings involving the same claimant and the same issues of adulteration or misbranding are pending in two or more district courts, such proceedings upon application of the claimant to one of such courts may be consolidated for trial by order of such court and tried in any district, selected by the claimant, where one of the proceedings is pending, or, if not so selected, in a district contiguous to the State of the claimant's principal place of business, to be agreed upon between the parties, or, if they cannot agree, to be designated by the court to which the application is made. The conference agreement requires the consolidation to be in a district selected by the claimant where one of the proceedings is pending or in a district agreed upon between the parties, and further provides that if not selected in one of these manners, the court to which the application is made (after reasonable notice and opportunity for hearing to the United States attorney) shall by order, unless good cause to the contrary is shown, order the consolidation to be made in a district of reasonable proximity to the claimant's principal place of business." [Italics added.]

"Section 304 (b) of the Act requires that the procedure in cases arising under this section 'conform, as nearly as may be, to the procedure in admiralty.' In, *In re Thames Towboat Co.*, 21 F. (2d) 573, (D. C. D. Conn., 1927), a motion was made by one of the parties to remove an admiralty case from the District of Connecticut to the Eastern District of New York. The Court denied this motion and said, '* * * there are no such proceedings in admiralty as motions * * * to remove from one district to another.'

"In the absence of express statutory authority a district court does not have the authority to transfer a case to another district court for trial. See, *Billings Utility Co. v. Federal Reserve Bank*, 40 F. Supp. 309 (D. C. D. Montana, 1941); *Spies v. Chicago E. E. I. R. Co.*, 32 Fed. 713, (S. D. N. Y., 1887); *In re Associated Gas & Electric Co.*, 83 F. (2d) 734 (CCA 2, 1936). United States District Courts have no jurisdiction beyond that granted by Congress. *Applegate v. Applegate*, 39 F. Supp. 887.

"In the Federal Food, Drug and Cosmetic Act Congress has empowered the district courts to remove designated types of libel proceedings to other districts for trial. The present libel proceeding is not among those therein designated as removable. I know of no other statute that authorizes its transfer to another district for trial, and none has been called to my attention.

"For the foregoing reasons, the motion to transfer the above cause is denied."

The C. C. Company having propounded certain interrogatories, and the government having filed objection thereto, the court, on April 4, 1945, sustained one of the interrogatories but allowed those requesting the date and results of analyses, the nature of the tests made by the government, and the percentage of the samples in each code determined to be unfit. The government subsequently filed answers to the propounded interrogatories. On June 19, 1945, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the court ordered the release of certain codes found to be fit, and ordered the unfit portions destroyed under the supervision of the Food and Drug Administration.

8225. Adulteration of frozen shrimp. U. S. v. 120 Cakes of Frozen Shrimp. Default decree of condemnation and destruction. (F. D. C. No. 16049. Sample No. 4723-H.)

LIBEL FILED: April 20, 1945, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 15, 1944, by the Union Fish Co., from Baltimore, Md.

PRODUCT: 120 20-pound cakes of frozen shrimp, at Philadelphia, Pa.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: May 15, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

FRUITS AND VEGETABLES*

DRIED FRUIT

8226. Adulteration of dried apricots. U. S. v. 57 Bags and 65 Bags of Dried Apricots. Consent decrees of condemnation. Product ordered released under bond. (F. D. C. Nos. 16175, 16219. Sample Nos. 17716-H, 17719-H.)

LIBELS FILED: May 23 and 24, 1945, Northern District of Illinois.

ALLEGED SHIPMENT: On or about March 10, 1945, by B. F. McKinney, from San Jose, Calif.

PRODUCT: 122 bags, containing a total of 10,558 pounds, of dried apricots at Chicago, Ill.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of filthy and decomposed substances by reason of the presence of dirty, moldy, and decomposed apricots.

DISPOSITION: June 7, 1945. Frank Korinek and Joseph Schufeltowski, claimants, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be utilized in the distillation of alcohol, under the supervision of the Food and Drug Administration.

*See also Nos. 8103-8107, 8283.

8227. Adulteration of dried apricots. U. S. v. 1,346 Cases and 217 Cases of Dried Apricots. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16038. Sample Nos. 5730-H, 5731-H.)

LIBEL FILED: April 16, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about March 8, 1945, by the Richmond-Chase Co., San Jose, Calif.

PRODUCT: 1,563 25-pound cases of dried apricots at New York, N. Y.

LABEL, IN PART: "Quality Inn Brand Dried Apricots," or "Richmond Brand Dried Extra Fancy Santa Clara Blenheim Apricots."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hair fragments, dirty apricots, and rodent excreta.

DISPOSITION: July 21, 1945. The Richmond-Chase Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be fermented, the alcohol recovered, and the residue, after distillation, disposed of under the supervision of the Food and Drug Administration..

8228. Adulteration of pitted dates. U. S. v. 80 Boxes of Pitted Dates. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 15958. Sample No. 18731-H.)

LIBEL FILED: April 24, 1945, District of Minnesota.

ALLEGED SHIPMENT: On or about February 19, 1945, by the Bordo Products Co., from New York, N. Y.

PRODUCT: 80 70-pound boxes of pitted dates at Minneapolis, Minn.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect excreta, and webbing.

DISPOSITION: May 10, 1945. The Bristol, Gustafson Brokerage Co., Minneapolis, Minn., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the good portion be separated from the bad, and that both portions be disposed of in compliance with the law, under the supervision of the Food and Drug Administration.

8229. Adulteration of dried figs. U. S. v. 20 Cartons of Dried Figs. Default decree of condemnation. Product ordered delivered to the National Zoological Park. (F. D. C. No. 16666. Sample No. 3102-H.)

LIBEL FILED: June 29, 1945, District of Columbia.

ALLEGED SHIPMENT: On or about April 30, 1945, by the Clara Val Packing Co., from Baltimore, Md.

PRODUCT: 20 cartons, each containing 24 1-pound packages, of dried figs at Washington, D. C.

LABEL, IN PART: "Clara-Val Large Black Mission Figs * * * Packed by Clara Val Packing Co. Morgan Hill, Calif."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have been contaminated with filth.

DISPOSITION: August 21, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to the National Zoological Park, Washington, D. C., for use as animal feed.

8230. Adulteration of prunes. U. S. v. 37 Boxes of Prunes. Default decree of condemnation and destruction. (F. D. C. No. 16644. Sample No. 7086-H.)

LIBEL FILED: June 27, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about March 1, 1945, by the Drenton Packing Co., from San Jose, Calif.

PRODUCT: 37 25-pound boxes of prunes at New York, N. Y.

LABEL, IN PART: "Drenton's Calif. Prunes."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, insect fragments, and insect excreta; and, Section 402 (a) (4),

it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 26, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8231. Adulteration of raisins. U. S. v. 101 Cartons of Raisins. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16815. Sample No. 10314-H.)

LIBEL FILED: July 17, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about January 22 and March 1, 1944, by the California Packing Corporation, from Fresno, Calif.

PRODUCT: 101 25-pound cartons of seedless raisins at Pittsburgh, Pa.

LABEL, IN PART: "Duquesne Brand Midget Thompson Seedless Raisins."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect fragments, and insect excreta.

DISPOSITION: August 3, 1945. The Byrnes & Kiefer Co., Pittsburgh, Pa., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be used in the manufacture of distilled spirits, under the supervision of the Food and Drug Administration.

8232. Adulteration of raisins. U. S. v. 180 Boxes of Raisins. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16814. Sample No. 10313-H.)

LIBEL FILED: July 17, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about January 11, 1944, by Diebert Brothers and Snyder, from Biola, Calif.

PRODUCT: 180 25-pound boxes of raisins at Pittsburgh, Pa.

LABEL, IN PART: "Diebert's D. B. Brand Midget Thompson Seedless Raisins."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect excreta and larvae.

DISPOSITION: August 3, 1945. The Byrnes & Kiefer Co., Pittsburgh, Pa., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be used in the manufacture of distilled spirits, under the supervision of the Food and Drug Administration.

8233. Adulteration of raisins. U. S. v. 121 Boxes and 22 Boxes of Raisins. Default decrees of condemnation. Product ordered delivered to the National Zoological Park. (F. D. C. Nos. 16160, 16163. Sample Nos. 2881-H, 2882-H.)

LIBELS FILED: May 18, 1945, District of Columbia.

PRODUCT: 143 boxes, each containing 30 pounds, of raisins which were being held for sale in the District of Columbia in possession of the Fairfax Bread Co., Division of Safeway Stores, Inc., Washington, D. C.

LABEL, IN PART: "Bonner's Choice Thompson Seedless Raisins Packed by Bonner Packing Co. Fresno, California," "Dessert Brand Choice Recleaned Thompson Seedless Raisins, California Packing Corporation, San Francisco, California," or "Selmor Brand Choice Thompson Seedless Raisins Pacific Raisin Company, Inc. Fowler, Calif."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect-infested raisins.

DISPOSITION: July 5, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered delivered to the National Zoological Park, for use as animal feed.

8234. Adulteration of raisins. U. S. v. 194 Cartons of Raisins. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16119. Sample No. 4336-H.)

LIBEL FILED: May 5, 1945, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about March 14, 1945, by the H. J. Heinz Co., from Atlantic City, N. J.

PRODUCT: 194 30-pound cartons of raisins at Philadelphia, Pa.

LABEL, IN PART: (Cartons) "Sun-Maid Midget Thompson Seedless Raisins."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of weevils and larvae.

DISPOSITION: May 25, 1945. The H. J. Heinz Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be used in the distillation of alcohol, under the supervision of the Food and Drug Administration.

FRESH FRUIT

8235. Adulteration of apples. U. S. v. 14 Bushels of Apples. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 16330. Sample No. 10057-H.)

LIBEL FILED: May 10, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about May 5, 1945, by William C. Greenwald, from Olcott, N. Y.

PRODUCT: 14 bushels of apples at Pittsburgh, Pa. The product contained excessive spray residue.

VIOLATION CHARGED: Adulteration, Section 402 (a) (1), the product contained an added poisonous or deleterious substance, lead, which may have rendered it injurious to health.

DISPOSITION: June 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution, conditioned that the apples be washed and pared.

8236. Adulteration of apples. U. S. v. 6 Bushels of Apples. Default decree of condemnation and destruction. (F. D. C. No. 16329. Sample No. 10051-H.)

LIBEL FILED: May 7, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about May 2, 1945, by the Lerch Cooperative Cold Storage, Inc., from Lockport, N. Y.

PRODUCT: 6 bushels of apples at Pittsburgh, Pa. This product bore spray residue containing excessive lead.

VIOLATION CHARGED: Adulteration, Section 402 (a) (1), the product contained an added poisonous or deleterious substance, lead, which may have rendered it injurious to health.

DISPOSITION: May 24, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8237. Adulteration of apples. U. S. v. 1,596 Boxes of Apples. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16351. Sample Nos. 6094-H, 6096-H.)

LIBEL FILED: March 12, 1945, Northern District of Georgia.

ALLEGED SHIPMENT: On or about February 7 and 8, 1945, by the Yakima Fruit Growers Association, from Yakima, Wash.

PRODUCT: 1,596 boxes of apples, each containing approximately 1 bushel, at New York, N. Y. These apples bore excessive fluorine spray residue.

LABEL, IN PART: "Big Y Brand Winesap Apples."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product bore and contained an added poisonous and deleterious substance, fluorine, in an unsafe quantity and in excess of the limit fixed by regulation.

DISPOSITION: April 3, 1945. The Yakima Fruit Growers Association, claimant, having admitted the allegations of the libel, judgment of condemnation was entered. Examination having shown that a portion of the apples did not bear excessive fluorine residue, the court ordered that the product be released under bond, conditioned that the good portion be released and the remainder returned to the claimant at Yakima for removal of the fluorine, under the supervision of the Food and Drug Administration.

8238. Adulteration of apples. U. S. v. 9 Boxes of Apples. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 16086. Sample No. 23823-H.)

LIBEL FILED: On or about March 22, 1945, Northern District of Texas.

ALLEGED SHIPMENT: On or about February 21, 1945, by the Yakima County Horticultural Union, from Yakima, Wash.

PRODUCT: 9 boxes, each containing 1 bushel, of apples at Fort Worth, Tex. This product bore spray residue containing excessive lead.

LABEL, IN PART: "White Ribbon Brand * * * Yakima Apples."

VIOLATION CHARGED: Adulteration, Section 402 (a) (1), the product contained an added poisonous or deleterious substance, lead, which may have rendered it injurious to health.

DISPOSITION: May 8, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution on condition that the peel, core, and stem ends be removed, and the apples washed under the supervision of the Food and Drug Administration.

8239. Adulteration of blueberries. U. S. v. 24 Crates of Blueberries. Default decree of condemnation and destruction. (F. D. C. No. 17109. Sample No. 4742-H.)

LIBEL FILED: July 12, 1945, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about July 10, 1945, by Philip Wescoat, from Hammonton, N. Y.

PRODUCT: 24 crates, each containing 12 1-pint baskets, of blueberries at Philadelphia, Pa. This product was infested with maggots.

LABEL, IN PART: "Wescoat's Gold Seal Blueberries."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy vegetable substance.

DISPOSITION: August 8, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8240. Adulteration of fresh currants. U. S. v. 4 Barrels of Fresh Currants. Default decree of condemnation and destruction. (F. D. C. No. 17090. Sample No. 4831-H.)

LIBEL FILED: August 4, 1945, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about July 9, 1945, by J. Ed McGowan, from Marlborough, N. Y.

PRODUCT: 4 barrels, each containing approximately 350 pounds, of red currants at Philadelphia, Pa.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy and decomposed currants.

DISPOSITION: August 8, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

MISCELLANEOUS FRUIT PRODUCTS

8241. Adulteration of apple butter. U. S. v. 49 Cases of Apple Butter (and 2 other seizure actions against apple butter). Default decrees of condemnation and destruction. (F. D. C. Nos. 16439, 16440, 16489. Sample Nos. 9357-H, 9365-H, 9608-H.)

LIBELS FILED: June 13 and 18, 1945, Western District of New York.

ALLEGED SHIPMENT: On or about May 3 and 19, 1945, by the Knouse Corporation, from Peach Glen, Pa.

PRODUCT: 49 cases and 19 cases at Rochester, N. Y., and 297 cases at Buffalo, N. Y. Each case contained 12 jars of apple butter. Examination showed that the product contained mold, indicating the use of rotten apples.

LABEL, IN PART: "Golden Orchard Apple Butter."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: July 24 and 27, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

8242. Adulteration of canned apple butter. U. S. v. 129 Cases of Canned Apple Butter. Default decree of condemnation and destruction. (F. D. C. No. 16007. Sample No. 629-H.)

LIBEL FILED: May 5, 1945, Middle District of Georgia.

ALLEGED SHIPMENT: On or about January 27, 1944, by the Zigler Canning Co., from Timberville, Va.

PRODUCT: 129 cases, each containing 24 1-pound, 7-ounce cans, of apple butter at Macon, Ga. Examination showed that the product was undergoing chemical

decomposition. The inside of some of the cans was badly corroded, and the contents had an unpleasant metallic and astringent taste.

LABEL, IN PART: "Shenvalley Apple Butter."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance and was otherwise unfit for food.

DISPOSITION: June 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8243. Adulteration of guava paste and guava jelly. U. S. v. 65 Boxes of Guava Paste and 66 Boxes of Guava Jelly. Default decree of condemnation and destruction. (F. D. C. No. 16218. Sample Nos. 29572-H, 29573-H.)

LIBEL FILED: May 22, 1945, Northern District of California.

ALLEGED SHIPMENT: On or about October 19, 1944, by Longino and Collins, Inc., from New Orleans, La.

PRODUCT: 65 14-ounce boxes of guava paste and 66 14-ounce boxes of guava jelly at San Francisco, Calif.

LABEL, IN PART: "La Teresita * * * Guava Paste [or "Jelly"]."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects, insect fragments, and insect excreta.

DISPOSITION: August 11, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

8244. Adulteration of orange marmalade base. U. S. v. 112 Cans of Orange Marmalade Base. Default decree of condemnation. Product ordered sold. (F. D. C. No. 16449. Sample Nos. 22074-H, 22075-H.)

LIBEL FILED: June 14, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about March 30, 1945, by Mann Brothers, from Lakeland, Fla.

PRODUCT: 16 1-gallon cans and 96 5-gallon cans of orange marmalade base at St. Louis, Mo.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: July 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, conditioned upon the adoption of safeguards to insure that it would not be disposed of for human consumption.

8245. Adulteration of peach paste. U. S. v. 50 Cartons of Peach Paste. Default decree of condemnation and destruction. (F. D. C. No. 15934. Sample Nos. 10032-H, 10248-H.)

LIBEL FILED: April 19, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about June 16, 1943, by Kramer Brothers, from Chicago, Ill.

PRODUCT: 50 35-pound cartons of peach paste at Pittsburgh, Pa.

LABEL, IN PART: "Skyline Brand Peach Paste Packed By North Ontario Dried Fruit Co. Los Angeles, California."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of beetles and larvae and of sour and fermented peach paste.

DISPOSITION: May 24, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

VEGETABLES

8246. Adulteration of frozen green beans. U. S. v. 290 Cases of Frozen Green Beans. Default decree of condemnation. Unfit portion ordered destroyed. Edible portion ordered delivered to a public institution. (F. D. C. No. 16854. Sample No. 31634-H.)

LIBEL FILED: July 13, 1945, Southern District of California.

ALLEGED SHIPMENT: On or about August 31, 1944, by the Dixie Frosted Foods Co., from Georgiana, Ala.

PRODUCT: 290 cases, each containing 10 4-pound packages, of frozen green beans at Los Angeles, Calif.

LABEL, IN PART: "Brakeley's 'Little Darling' Fresh Frozen Green Beans."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: August 8, 1945. No claimant having appeared, judgment of condemnation was entered and it was ordered that the unfit portion be destroyed and the edible portion delivered to a public institution.

8247. Misbranding of canned lima beans. U. S. v. 256 Cases of Canned Lima Beans. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16198. Sample No. 26943-H.)

LIBEL FILED: June 5, 1945, District of Colorado.

ALLEGED SHIPMENT: On or about April 2, 1945, by the Otoe Food Products Co., from Nebraska City, Nebr.

PRODUCT: 256 cases, each containing 24 1-pound, 4-ounce cans, of lima beans at Denver, Colo.

LABEL, IN PART: "Otoe Small Lima Beans In Sauce * * * Packed From Dry Lima Beans, Sauce Ingredients—Water—Salt—Sugar—Butter—Vinegar."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the label statement, "Water—Salt—Sugar—Butter—Vinegar," was misleading since it failed to reveal the material fact that the article contained but a minute quantity of butter, if any; and Section 403 (g) (1), the article purported to be and was represented as canned lima beans, but it failed to conform to the definition and standard which provides that the vegetable ingredient be obtained by proper preparation from the succulent vegetable, whereas the article was prepared from dried lima beans.

DISPOSITION: July 28, 1945. The Otoe Food Products Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

8248. Adulteration of lima beans, rice, and pinto beans. U. S. v. 45 Bags of Lima Beans, 13 Bags of Rice, 11 Bags of Pinto Beans, and 25 Bags of Baby Lima Beans. Decree of condemnation. Products ordered released under bond. (F. D. C. No. 15931. Sample Nos. 20221-H, 20223-H to 20225-H, incl., 20251-H.)

LIBEL FILED: On or about April 24, 1945, Western District of Missouri.

ALLEGED SHIPMENT: Between the approximate dates of September 2 and November 23, 1944, from DeWitt, Ark., Fort Morgan, Colo., Oxford, Calif., and Tarke, Calif.

PRODUCT: 45 100-pound bags of lima beans, 13 100-pound bags of rice, 11 100-pound bags of pinto beans, and 25 100-pound bags of baby lima beans at Kansas City, Mo., in the possession of the Consumers Mill Product Co. The products were stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and urine stains were observed on them. Examination showed that the rice and 1 lot of lima beans contained rodent excreta and rodent hairs, and that the pinto beans and the other lot of limas were contaminated with urine and contained rodent hairs.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: June 12, 1945. The Consumers Mill Product Co. having appeared as claimant, judgment of condemnation was entered and the products were ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The products were converted into animal feed.

8249. Adulteration of frozen broccoli. U. S. v. 914 Cases of Frozen Broccoli. Decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 16366, 16367. Sample No. 4530-H.)

LIBEL FILED: June 11, 1945, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 25, 1944, by the Hershey Packing Co., from Everett, Wash.

PRODUCT: 914 cases, each containing 24 10-ounce packages, of frozen broccoli at Philadelphia, Pa.

LABEL, IN PART: "Hershey's Quick Frozen Broccoli."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: July 6, 1945. The Reading Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration.

8250. Adulteration of canned corn. U. S. v. 99 Cases of Canned Corn (and 3 other seizure actions against canned corn). Default decrees of condemnation and destruction. (F. D. C. Nos. 16034 to 16036, incl., 16041. Sample Nos. 2850-H, 2851-H, 3045-H, 3046-H.)

LIBELS FILED: April 14, 1945, District of Columbia.

ALLEGED SHIPMENT: On or about February 5 and 6, 1945, by Thomas and Co., from Frederick, Md.

PRODUCT: 379 cases, each containing 6 6-pound, 10-ounce cans, of corn at Washington, D. C. This product was undergoing progressive decomposition.

LABEL, IN PART: (Cans) "Barbara Fritchie Brand Cream Style Corn."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: May 28, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

8251. Adulteration of dried mushrooms. U. S. v. 20 Cards of Dried Mushrooms. Default decree of condemnation and destruction. (F. D. C. No. 16248. Sample No. 30849-H.)

LIBEL FILED: May 26, 1945, Southern District of California.

ALLEGED SHIPMENT: On or about May 8, 1945, by Sokol and Co., from Chicago, Ill.

PRODUCT: 20 cards, each bearing 12 cellophane packages, of dried mushrooms at Los Angeles, Calif.

LABEL, IN PART: "Shield Brand Dried Mushrooms."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of maggots, insect fragments, and rodent hairs.

DISPOSITION: June 21, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8252. Adulteration of canned peppers. U. S. v. 49 Cases of Peppers. Default decree of condemnation and destruction. (F. D. C. No. 15911. Sample No. 18350-H.)

LIBEL FILED: April 12, 1945, Northern District of Iowa.

ALLEGED SHIPMENT: On or about February 24, 1945, by the Klopff Sales Co., from Kansas City, Mo.

PRODUCT: 49 cases, each containing 24 6-ounce jars, of peppers at Sioux City, Iowa. Examination showed that the product was undergoing active fermentation.

LABEL, IN PART: "Schneider's Superior Fancy No. 12 Sweet Peppers."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: May 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8253. Adulteration of peppers in glass. U. S. v. 99 Cases of Peppers in Glass. Default decree of condemnation and destruction. (F. D. C. No. 16052. Sample No. 29334-H.)

LIBEL FILED: April 21, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about March 24, 1945, by V. Galati, through Encinal Terminals, Oakland, Calif.

PRODUCT: 99 cases, each containing 24 1-pint jars, of peppers in glass, at New York, N. Y. This product was underprocessed, fermented, and decomposed.

LABEL, IN PART: (Jars) "Lombardo Brand Peperoncini * * * Galati Packing Co. San Jose, Calif."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: May 5, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8254. Misbranding of potatoes. U. S. v. Olathe Potato Growers Association, Inc. Plea of nolo contendere. Fine, \$150. (F. D. C. No. 15579. Sample Nos. 66999-F, 67000-F.)

INFORMATION FILED: July 31, 1945, District of Colorado, against the Olathe Potato Growers Association, Inc., Olathe, Colo.

ALLEGED SHIPMENT: On or about September 29, 1944, from the State of Colorado into the State of Missouri.

LABEL, IN PART: "Stampede Brand Potatoes [or "Banner Brand U. S. No. 2"] Sold by Colorado Potato Growers Exchange Denver, Colo. 100 Lbs. Net."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents in terms of weight since the sacks contained less than 100 pounds net of potatoes.

DISPOSITION: September 10, 1945. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$150.

8255. Alleged misbranding of potatoes. U. S. v. Fred L. Behling (F. L. Behling). Plea of not guilty. Tried to the court. Case dismissed. (F. D. C. No. 11376. Sample Nos. 9855-F, 9856-F.)

INFORMATION FILED: May 22, 1945, District of Minnesota, against Fred L. Behling, trading as F. L. Behling, at East Grand Forks, Minn.

ALLEGED SHIPMENT: On or about September 18 and 20, 1943, from the State of Minnesota into the State of Louisiana.

LABEL, IN PART: (Bags) "Red River Valley Call of the North Potatoes Grown and Packed by John P. Bushee East Grand Forks, Minn. 100 Pounds."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the label statement "100 Pounds" was false and misleading since the bags contained a smaller amount of potatoes; and, Section 403 (e) (2), the product did not bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: May 23, 1945. The defendant having entered a plea of not guilty, the case proceeded to trial before the court. At the conclusion of the government's case, the defendant moved for a dismissal of the case on the ground that the government had failed to sustain the allegations of the information. After consideration of the arguments of counsel, the court ordered the defendant discharged, and the case was dismissed.

8256. Adulteration and misbranding of sauerkraut. U. S. v. 145 Cases of Sauerkraut (and 2 other seizure actions against sauerkraut). Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 16134, 16157, 16321. Sample Nos. 6737-H, 6744-H, 6751-H.)

LIBELS FILED: Between May 12 and June 2, 1945, District of Connecticut.

ALLEGED SHIPMENT: Between the approximate dates of April 3 and 13, 1945, by the Union County Pickle Co., Inc., Elizabeth, N. J.

PRODUCT: 145 cases at Bridgeport, Conn., 200 cases at Waterbury, Conn., and 109 cases at Hartford, Conn., each case containing 12 1-quart jars, of sauerkraut.

LABEL, IN PART: "Mother May's Sauerkraut * * * Packed By Mrs. Warner's Preserving Co., Elizabeth, N. J."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), brine had been substituted in part for sauerkraut, which the article was represented to be.

Misbranding, Section 403 (d), the container was so filled as to be misleading since, due to the tendency of sauerkraut to disperse in the liquid packing medium, the jars appeared to contain more sauerkraut than was actually the case.

DISPOSITION: July 9, 1945. The Union County Pickle Co., Inc., claimant, having consented to the entry of a decree, and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond to be repacked under the supervision of the Food and Drug Administration.

8257. Adulteration and misbranding of canned sauerkraut. U. S. v. 398 Cases of Canned Sauerkraut. Default decree of condemnation and destruction. (F. D. C. No. 16026. Sample No. 9432-H.)

LIBEL FILED: May 9, 1945, Western District of New York.

ALLEGED SHIPMENT: On or about February 22, 1945, by the Morgan Packing Co., from Austin, Ind.

PRODUCT: 398 cases, each containing 12 2-pound jars, of sauerkraut at Elmira, N. Y. These jars contained an average of 21.01 ounces. Jars of this size should contain 25 ounces of drained kraut.

LABEL, IN PART: "Scott Co. Sauerkraut."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance; and, Section 402 (b) (2), brine had been substituted in part for sauerkraut.

Misbranding, Section 403 (d), the container was so filled as to be misleading, since the jars appeared to contain more sauerkraut than was actually the case.

DISPOSITION: June 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8258. Adulteration of canned turnip greens. U. S. v. 156 Cases of Canned Turnip Greens. Default decree of condemnation and destruction. (F. D. C. No. 16047. Sample No. 2288-H.)

LIBEL FILED: May 5, 1945, Eastern District of North Carolina.

ALLEGED SHIPMENT: On or about November 16, 1944, by Taylor and Sledd, Inc., from Cheriton, Va.

PRODUCT: 156 cases, each containing 6 No. 10 cans, of turnip greens at Wilmington, N. C. Examination showed that the article was undergoing progressive spoilage.

LABEL, IN PART: "Pocahontas Brand * * * Turnip Greens Packed For H. P. Taylor Jr. Inc. Sole Distributors Richmond, Va."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: June 18, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

TOMATOES AND TOMATO PRODUCTS

8259. Misbranding of canned tomatoes. U. S. v. 237 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15969. Sample No. 22036-H.)

LIBEL FILED: April 28, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about November 17, 1944, by the Michie-McNeill Brokerage Co., from Memphis, Tenn.

PRODUCT: 237 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at St. Louis, Mo.

LABEL, IN PART: "Pride of Halls Tomatoes * * * Halls Canning Co. Halls, Tenn."

VIOLATION CHARGED: Misbranding, Section 403 (h) (1), the quality of the product fell below the standard for canned tomatoes because of the presence of excessive peel.

DISPOSITION: May 21, 1945. The Halls Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

8260. Misbranding of canned tomatoes. U. S. v. 110 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15939. Sample No. 22146-H.)

LIBEL FILED: April 20, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about December 28, 1944, by the General Warehouse Co., from Memphis, Tenn.

PRODUCT: 110 cases, each containing 24 cans, of tomatoes at St. Louis, Mo.

LABEL, IN PART: "Pride of Halls Tomatoes * * * Packed by Halls Canning Co., Halls, Tennessee."

VIOLATION CHARGED: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes prescribed by the regulations since it contained peel and blemishes per pound in excess of the maximum peel and blemishes permitted by the standard; and the label failed to bear, in such manner and form as the regulations specify, a statement that the product fell below the standard.

DISPOSITION: May 11, 1945. The Halls Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the

product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

8261. Adulteration of tomato catsup. U. S. v. 75 Cartons of Tomato Catsup. Default decree of destruction. (F. D. C. No. 16290. Sample No. 2760-H.)

LIBEL FILED: May 24, 1945, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about December 11, 1944, by the S. J. Van Lill Co., from Baltimore, Md.

PRODUCT: 75 cartons, each containing 24 bottles, of tomato catsup at Blackstone, Va.

LABEL, IN PART: "Van Lill's Astoria Brand Pure Tomato Catsup."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: June 12, 1945. No claimant having appeared, judgment was entered ordering that the product be destroyed.

8262. Adulteration of canned tomato paste. U. S. v. 25 Cases of Canned Tomato Paste. Default decree of condemnation and destruction. (F. D. C. No. 16121. Sample No. 29584-H.)

LIBEL FILED: May 7, 1945, District of Massachusetts.

ALLEGED SHIPMENT: On or about April 26, 1945, by the G. B. Celli Co., from Oakland, Calif.

PRODUCT: 25 cases, each containing 100 6-ounce cans, of tomato paste at Boston, Mass.

LABEL, IN PART: "Contadina Fancy Tomato Paste * * * Grown & Packed in California Hershel Cal. Fruit Prod. Co. San Jose, Calif."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: June 25, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8263. Adulteration of canned tomato paste. U. S. v. 455 Cases of Canned Tomato Paste. Default decree of condemnation. Product ordered delivered to a Federal institution. (F. D. C. No. 16005. Sample No. 28472-H.)

LIBEL FILED: May 5, 1945, Western District of Washington.

ALLEGED SHIPMENT: On or about January 15, 1945, by Flotill Products, Inc., from Stockton, Calif.

PRODUCT: 455 cases, each containing 96 6-ounce cans, of tomato paste at Tacoma, Wash.

LABEL, IN PART: "Flotta Tomato Paste."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: July 28, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal institution.

8264. Adulteration of tomato paste. U. S. v. 497 Cases of Tomato Paste. Default decree of condemnation and destruction. (F. D. C. No. 16118. Sample No. 29591-H.)

LIBEL FILED: May 12, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about April 17, 1945, by Western California Cannery, Inc., Oakland, Calif.

PRODUCT: 497 cases, each containing 6 6-pound, 13-ounce cans, of tomato paste at New York, N. Y.

LABEL, IN PART: "Pastene Fancy California Tomato Paste * * * Distributed by Pastene & Co., Inc. New York Boston Montreal.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: July 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8265. Adulteration of tomato puree. U. S. v. 619 Cases of Tomato Puree. Default decree of condemnation and destruction. (F. D. C. Nos. 16453 to 16462, incl. Sample No. 31524-H.)

LIBEL FILED: June 15, 1945, Southern District of California.

ALLEGED SHIPMENT: On or about March 2, 1945, by the St. Marys Packing Co., from St. Marys, Ohio.

PRODUCT: 619 cases, each containing 6 No. 10 cans, of tomato puree at Long Beach, Calif.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: July 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

NUTS AND NUT PRODUCTS*

8266. Adulteration of frozen coconut. U. S. v. 61 Cartons of Frozen Coconut. Default decree of condemnation and destruction. (F. D. C. No. 15930. Sample No. 29121-H.)

LIBEL FILED: April 20, 1945, Northern District of California.

ALLEGED SHIPMENT: On or about March 18, 1945, by the Booth Cold Storage Co., from Chicago, Ill.

PRODUCT: 61 cartons, each containing 2 packages, of frozen grated coconut at San Francisco, Calif.

LABEL, IN PART: "Booth Famous Foods Quick Frozen Medium Grated Frozen Coconut."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of sour and moldy coconut.

DISPOSITION: May 23, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8267. Adulteration of peanuts. U. S. v. 340 Sacks of Peanuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16003. Sample Nos. 32054-H, 32058-H, 32321-H.)

LIBEL FILED: May 7, 1945, Southern District of California.

ALLEGED SHIPMENT: On or about January 8, 1945, from Leesburg, Ga.

PRODUCT: 340 100-pound sacks of peanuts at Los Angeles, Calif., in possession of the Metropolitan Warehouse. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent pellets and urine stains were observed on them. Examination showed that the product contained rodent hairs.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 19, 1945. The Mellos Peanut Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

8268. Adulteration of shelled peanuts. U. S. v. 175 Bags of Shelled Peanuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16928. Sample No. 18598-H.)

LIBEL FILED: July 28, 1945, District of Minnesota.

ALLEGED SHIPMENT: On or about November 8, 1944, from Suffolk, Va.

PRODUCT: 175 bags of peanuts at St. Paul, Minn., in the possession of the St. Paul Terminal Warehouse No. 7. The product was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta and urine stains were observed on them. Examination showed that the product contained rodent-gnawed and moldy peanuts.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

*See also No. 8164.

DISPOSITION: August 19, 1945. The Fisher Nut and Chocolate Co., St. Paul, Minn., claimant, having consented to the entry of a decree, judgment was entered condemning the product, with the exception of any fit portion that might be segregated from the bad under the supervision of the Food and Drug Administration. The decree provided further that the product be released under bond, conditioned that it should not be disposed of in violation of the law.

8269. Misbranding of salted peanuts. U. S. v. 8 Cases of Salted Peanuts. Default decree of condemnation and destruction. (F. D. C. No. 16866. Sample No. 27276-H.)

LIBEL FILED: July 26, 1945, District of Oregon.

ALLEGED SHIPMENT: On or about June 21, 1945, by Idaho Food Products, Inc., from Boise, Idaho.

PRODUCT: 8 cases, each containing 48 11-ounce bags, of salted peanuts at Baker, Oreg.

LABEL, IN PART: "Carolyn Brand Thrifty Pack Quality Foods."

VIOLATIONS CHARGED: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of contents; Section 403 (i) (1), its label failed to bear the common or usual name of the article; and, Section 403 (i) (2), its label failed to bear the common or usual name of each of its ingredients.

DISPOSITION: September 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8270. Adulteration of peanut butter and chocolate-covered peanuts. U. S. v. 75 Cases of Peanut Butter (and 4 other seizure actions against peanut products). Tried to the court. Judgment dismissing libels. Judgment reversed by the circuit court of appeals. Petition by claimant for writ of certiorari denied. Decree of condemnation and destruction. (F. D. C. Nos. 11023, 11076, 11127, 11143, 11193. Sample Nos. 53226-F, 53227-F, 53511-F, 53515-F, 58514-F.)

LIBELS FILED: Between October 27 and December 7, 1943, District of Maryland and Eastern District of North Carolina. Two of the Maryland libels were amended on January 20, 1944.

ALLEGED SHIPMENT: Between the approximate dates of October 6 and 15, 1943, by the Old Dominion Peanut Corporation, from Norfolk, Va.

PRODUCT: 162 cases of peanut butter at Baltimore, Md., and 23 cases of peanut butter at Tarboro, N. C., each case containing 24 jars, and 200 boxes of chocolate-coated peanuts at Wilson, N. C.

LABEL, IN PART: (Jars) "Top Notch Brand [or "Virginia Maid Brand"] Peanut Butter," "LaGrande Brand Peanut Butter * * * Packed For Foote Bros. and Co., Distributors, Norfolk, Va.," and (boxes) "Betteryet Chocolate Coated Peanuts."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects, insect fragments, rodent excreta fragments, rodent hair fragments, and dirt; and, Section 402 (a) (4), they were prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: On December 29, 1943, upon application of the Old Dominion Peanut Corporation, claimant, the district court for the District of Maryland ordered that the three cases filed in that district and the two cases pending in the Eastern District of North Carolina be consolidated for hearing of preliminary proceedings and trial. The claimant thereafter filed a motion to impound the evidence and documents upon which all of the cases were based, alleging that they had been illegally obtained, and further prayed the court to return the seized merchandise and to quash and dismiss the consolidated cases. On February 2, 1944, this motion having come on for hearing, the testimony of witnesses of the respective parties having been heard in open court, and the proceedings and argument of counsel having been duly considered, the court handed down the following opinion:

COLEMAN, *District Judge*: "This suit involves four [five] consolidated libel proceedings under the Federal Food, Drug and Cosmetic Act (21 U. S. C. A. Secs. 301-392) on the ground of alleged adulteration of certain shipments of peanut-butter.

"The motion of claimant to impound certain evidence and documents, to return the seized merchandise, and to quash and dismiss the libels, to which the Government has filed exceptions, must be granted for the following reasons.

"There are two questions in the case presented by the motion: first, whether the Government inspector acted within his authority and according to the requirements of the Act, as respects the inspection of claimant's plant on the dates in question; and, second, whether this same inspector likewise acted in accordance with the law in obtaining access to, and copying data from interstate shipping records of the claimant which form the basis for these proceedings.

"On the first question, I must rule in favor of the Government. Section 374 provides for very broad inspection of the factory itself, 'and all pertinent equipment, finished and unfinished materials, containers and labeling therein,' after first requesting and obtaining permission of the owner, operator or custodian of the factory to make such inspection. I find from the weight of the credible evidence that permission to do this was fully and freely given by claimant in the present case; that it is reasonable to assume that the results of such inspection might, without more, have led the Government to insist upon improvement within the plant, and that claimant might have inferred that such was a probable purpose implied in the inspection. Also, equally full permission was given to the inspector to take photographs in the plant, etc., so, in doing so, the inspector did not go counter to the requirements of the law.

"On the second point, however, I feel that, while the case may be said to be a borderline one, the somewhat peculiar facts require the Court to rule in favor of the claimant.

"Section 373 of the Act sets out, meticulously, the method by which records of interstate shipments shall be obtained for the purpose of enforcing the Act's provisions, which is that such records may be obtained *from the carrier* upon the request of an officer or employee duly designated by the Administrator under the Act. That provision does not mean that the records may never be obtained in some other manner, i. e., direct from the shipper if he freely consents to disclose them, but I think it does mean that if the Government sees fit to bypass the specified method, then it must be very careful to make *full* disclosure to the factory owner as to the purpose for asking for the records. Clearly, the use of the words 'all pertinent equipment' in Section 374 was not intended to include, for example, a firm's books of account or financial statements. A fortiori, it was not intended to include data of a firm's shipments, especially since the Section of the Act just preceding (Section 373) specifically provides how such data shall be obtained by the Government.

"In the present case, I find from the weight of the credible evidence that there was no such full and complete disclosure as the Government was required to make. It is true the president of the company testified—and I think his testimony is characterized by complete frankness, as also is that of the Government inspector—that he gave permission to the inspector to look at the records, but there is no evidence of any conversation on any occasion, or any discussion between the inspector and the president of the company or any one else connected with the company, as to the precise use to which disclosure of the records would be put. Yet the information so obtained was made the basis of these proceedings, and is the *only* basis for them. That smacks of surprise, if not of actual misrepresentation, and I do not think that is a permissible way for the Government to proceed. It should follow the strict provisions of the law. It should not so combine a factory inspection with an examination of the records as might—and as, I find in the present case, did, in fact—mislead the factory owner or operator as to just what use the Government might make of the shipping data gleaned from these records. Possible damage to claimant's business reputation was likely to be involved in stoppage and seizure of its shipments in interstate movement—far more damage than would normally be contemplated by imposing added sanitary requirements for manufacture of the product so shipped.

"To summarize: I do not base the granting of the motion in this case upon a violation of the Fourth Amendment. The Government is correct in saying that the Amendment is not basis for relief in a civil suit of this kind. See *U. S. vs. 935 Cases more or less, etc.*, 136 Fed. (2) 523, and cases therein cited. I rest my decision upon what I believe to be the proper interpretation of the Act as applied to the particular facts as I find them from the weight of the credible evidence.

"For aught that appears, this proceeding might have been avoided, and the public interest equally and no doubt much more speedily served, if there had been a more complete, frank disclosure at the time to the president of the company as to just what would follow as a result of the examination of the records. It is true the inspector who examined the records was acting under direction

of his superior, and it is not to be assumed that he had any ill-will or intention to misrepresent the situation. Yet, for aught that appears, there is reasonable ground to believe that the Government's position was misrepresented; and, in any event, where the Act says that investigators, before starting libel proceedings based upon interstate shipments shall obtain records in a certain way, they should either proceed accordingly, or should make complete disclosure to the factory owner or operator and be sure that his consent to examination of his records is not due in any respect to a failure to understand the full use to which the records might be put.

"For the reasons given, I will sign an order granting the motion to impound and to return the evidence taken from the records of the claimant, which means a dismissal of the present proceeding, because it is based on information which I rule was improperly obtained. However, the shipments will be ordered to remain in the Marshal's custody for a period of fifteen days, pursuant to the Government's request, pending a determination by it as to whether or not to take an appeal.

"I should add that my conclusion should not in any way hamper the Government or give any solace to the claimant if it be a fact that claimant has violated the law, because the Government still has a right to obtain from the carriers the records of interstate shipments; to bring new libel proceedings, or, in lieu of that, on the basis of what evidence they may already have from *other* sources, to bring, if they see fit to do so, an equity proceeding for the purpose of having further shipment in interstate commerce by the claimant restrained."

In accordance with the above opinion, the court, on February 11, 1944, ordered that the claimant's motion be granted and that the case be dismissed. The government subsequently perfected an appeal to the Circuit Court of Appeals for the Fourth Circuit, and on December 27, 1944, after consideration of the briefs and arguments of counsel, the following opinion was rendered by that court:

DOBIE, *Circuit Judge*: "This is an appeal from an order and judgment of the District Court impounding certain evidence and documents, and dismissing five libels for condemnation, consolidated for trial, brought pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act, June 25, 1938, c. 675, 52 Stat. 1040, 21 U. S. C. A. § 301 et seq. (hereinafter called the Act). The evidence and documents were impounded, and the Government prohibited from using them and any information obtained therefrom, on the assumption that the evidence, documents and information were obtained by a government representative wrongfully and in violation of certain provisions of the Act. The opinion of the District Court is reported in 54 F. Supp. 641.

"The Old Dominion Peanut Corporation (hereinafter referred to as claimant) is a corporation with its place of business in Norfolk, Virginia, engaged in manufacturing peanut butter and peanut candies. On or about October 15, 1943, one Rankin, an inspector for the Food and Drug Administration, went to claimant's plant for the purpose of making an inspection of the factory, under authority of Section 374 of the Act. He saw Stubbs, claimant's president, and revealed the purpose of his visit. Stubbs made no objection. An inspection of the factory was made and Rankin found rodent pellets and refuse in and around the food products. Chapman, claimant's plant superintendent, secured containers for Rankin and samples of the food products were taken.

"After the completion of the factory inspection, Rankin asked to see the company invoices for the purpose of ascertaining where shipments of these food products were being made. Mizzell, the claimant's sales manager, produced the invoices for Rankin's inspection. No objection whatever was made by either Stubbs or Mizzell.

"Subsequently, on November 1, 1943, Rankin returned to claimant's plant for another inspection. Stubbs gave Rankin permission to make the inspection and take photographs of insanitary conditions. The inspection again showed the presence of rodent pellets and refuse. Rankin photographed and took as evidence a dead mouse found in the candy manufacturing room. Rankin testified that he informed Worsham, claimant's secretary-treasurer, of the insanitary conditions and advised him that legal proceedings might result. Rankin again asked for permission to inspect claimant's invoices and this permission was once more granted, without objection. He made notations of claimant's interstate shipments. Later certain shipments of these food products were seized and, on analysis showing the presence of filth in the food products, the instant libels for condemnation were brought.

"The District Court found, and we agree with this finding, that permission to inspect the factory was fully and freely given. Further findings were made to the effect that permission was given to Rankin to inspect the claimant's invoices; but the District Court held that this permission was secured by a method that 'smacks of surprise, if not of actual misrepresentation.' This finding was predicated on the Court's interpretation of the requirements of Section 373 of the Act, and was, we think, clearly erroneous. F. R. C. P., Rule 52(a), 28 U. S. C. A. following § 723c.

"Section 373 of the Act provides as follows:

For the purpose of enforcing the provisions of this chapter, carriers engaged in interstate commerce, and persons receiving food, drugs, devices, or cosmetics in interstate commerce or holding such articles so received, shall, upon the request of an officer or employee duly designated by the Administrator, permit such officer or employee, at reasonable times, to have access to and to copy all records showing the movement in interstate commerce of any food, drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; and it shall be unlawful for any such carrier or person to fail to permit such access to and copying of any such record so requested when such request is accompanied by a statement in writing specifying the nature or kind of food, drug, device, or cosmetic to which such request relates.

"The Court below has taken the position, that since Section 373 'meticulously' sets out the method by which information as to interstate shipments is to be obtained, should the Government choose to avail itself of any other method, it must make a full and complete disclosure to the claimant and make sure that claimant's consent is not due in any respect to a failure to understand the fullest use to which the records might be put by the Government.

"While we agree that in no case should the Government be permitted to use fraudulent methods in obtaining evidence, we think that the District Court has here placed an unduly narrow construction on this statute. No such interpretation is warranted, either by the words of the Act, by its purpose, or by its legislative history.

"Section 373 was enacted to provide a compulsory method by which information of interstate shipments, necessary to the enforcement of the Act, might be obtained from carriers. The need for such a method is obvious since interstate transportation is, in large part, done by common carriers. The lack of such a provision had proved a definite handicap to the enforcement of the Act. H. R. Report No. 2139—75th Cong. 3rd Session. But this section does not require that investigation must be limited to the records of the classes of persons therein enumerated. Nothing in the legislative history of the Act indicates any such intent on the part of Congress.

"Claimant contends here, as it did below, that since the Act provides that the records of carriers and receivers may be examined, this excludes the examination of the claimant's records. We agree with the District Court that the prescribing of certain compulsory methods of investigation does not exclude permissive investigation. The affidavit filed by Stubbs clearly shows the unfortunate result which would follow from a contrary view. The affiant there states that one of the interstate shipments involved was moved by the purchaser in his own truck. Such an instance reveals the difficulties confronted by those administering the Act, should permissive examination of the shipper's records be denied. In such cases there would be no common carrier's records to be examined. Such a view would clearly not be in conformity with the purposes of the Act.

"We need not consider the question of claimant's rights had it refused to allow Rankin's inspection of its invoices. The District Court found that such permission was given. We think that claimant has no grounds for contending, nor the District Court for finding, that claimant was really misled. Claimant's officers well knew, or must have known, that, should the plant inspection justify the sampling of products shipped in interstate commerce, this would be done. Further, Stubbs admitted that he was 'generally' familiar with the Act, and in the light of his experience he must have been aware, at least such knowledge is legally imputable to him, that should the sampling disclose filth, the products would certainly be subject to condemnation. This is the obvious and only practical inference to be drawn from these facts.

"In connection with Section 373 of the Act, there is no ground for the application of the maxim *expressio unius est exclusio alterius*. We interpret this section, rather as affording a cumulative procedure to the Government, without restricting other avenues of information. Nor are we impressed by the statement of claimant's president (who, without any remonstrance or protest, gave

Rankin free access to the invoices) that he would not have granted this access if he had not thought Rankin had a legal right to such access or if he had known that the information thereby gleaned might be used in subsequent libel proceedings. Permission to inspect the invoices was still voluntary and the Government was free to use this information in the proceedings for libel. See *Joong Sui Noon v. United States*, 76 F. (2d) 249, 251.

"We are not here dealing with a criminal proceeding within the 4th Amendment to the Constitution. *United States v. 935 Cases, etc.*, 136 F. (2d) 523 (C. C. A. 6, 1943), cert. denied, 320 U. S. 778. These libels for condemnation are proceedings *in rem*, and we agree with the Court below that there has been no violation of the 'search and seizure' clause of the 4th Amendment. *United States v. 935 Cases, etc., supra*. Public interest demands such a construction as will further the purposes of the Act. *United States v. Research Laboratories*, 126 F. (2d) 42, cert. denied, 63 S. Ct. 54.

"Claimant relies on *Boyd v. United States*, 116 U. S. 616, in support of its contentions. Several factors impel the view that the *Boyd case* has no application here. That case involved an unconstitutional demand for the production of records in a criminal proceeding. If the records were not produced (in the *Boyd case*) the allegations were to stand as admitted. No such question arises here. By a specific proviso in Section 373 of the Act such information received may not be used in a criminal prosecution of the person giving the information. Nor was the plate glass involved in the *Boyd case* an outlaw of interstate commerce. It was subject to forfeit only because of the illegal acts of its owner. Under the Act, condemned goods are subject to seizure and destruction irrespective of the intent of the manufacturer. *United States v. Buffalo Pharmacal Co.*, 131 F. (2d) 50 (C. C. A. 2, 1942).

"Claimant further contends that it was improper for the inspector to combine a factory inspection and an examination of the claimant's invoices. It can hardly be assumed that the activities of the Food and Drug Administration are of a pigeon-hole nature which demand canalized separation. The Administration operates as a unit in furtherance of its primary purpose—the protection of the public. It is not unreasonable to assume that packaged food in which filth is found, will be sold by the producer. Further, not only is it commensurate with the purpose of the Act to ascertain the interstate destination of the food in order to sample it for filth, should the factory inspection justify such action; but any other procedure would tend to frustrate the entire purpose of the Act. There was nothing wrongful in either the method of obtaining the information, or in the use of the information voluntarily granted. *Joong Sui Noon v. United States, supra*.

"There is no legal merit in the contention that the Administration must use other and more expensive and time consuming methods of investigation instead of using information voluntarily given. Nor do we find approval for claimant's position that had Rankin not received the information from its invoices, there would have been no means of tracing the adulterated food shipped in the purchaser's truck. The Administration is not indulging in a game of 'hide and seek.' Its efforts are expended in the protection of the public.

"Finally, claimant contends that the taking of samples by Rankin was illegal. This, we think, is also without merit. Section 372 (b) of the Act clearly contemplates the taking of samples.

"The judgment of the District Court is reversed and the cause is remanded to that Court for further proceedings consistent with this opinion."

On May 7, 1945, the Supreme Court of the United States denied claimant's petition for a writ of certiorari, and on May 11, 1945, judgment of condemnation was entered and the product was ordered destroyed.

8271. Adulteration of peanut butter. U. S. v. 75 Cases of Peanut Butter. Default decree of condemnation and destruction. (F. D. C. No. 16116. Sample No. 819-H.)

LIBEL FILED: May 8, 1945, Northern District of Georgia.

ALLEGED SHIPMENT: On or about March 23, 1945, by the Globe Grocery Co., from South Boston, Mass.

PRODUCT: 75 cases, each containing 12 2-pound jars, of peanut butter at Atlanta, Ga.

LABEL, IN PART: "Lynnhaven Brand Peanut Butter * * * Manufactured By Southgate Foods Norfolk, Va."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hair fragments, and dirt.

DISPOSITION: July 9, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8272. Adulteration of pecan meats. U. S. v. 5 Cases of Pecan Meats. Default decree of condemnation and destruction. (F. D. C. No. 16760. Sample No. 18249-H.)

LIBEL FILED: On or about June 27, 1945, Southern District of Iowa.

ALLEGED SHIPMENT: On or about May 21, 1945, by the R. E. Funsten Co., from St. Louis, Mo.

PRODUCT: 5 cases, each containing 30 pounds, of pecan meats at Des Moines, Iowa.

LABEL IN PART: "Funsten's Amber Shelled Pecans Pieces."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rancid and decomposed pecan meats.

DISPOSITION: August 31, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8273. Adulteration of shelled walnuts. U. S. v. 16 Cartons of Shelled Walnuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15946. Sample No. 18988-H.)

LIBEL FILED: April 23, 1945, District of Minnesota.

ALLEGED SHIPMENT: On or about December 5, 1944, by the Consolidated Nut Co., from Los Angeles, Calif.

PRODUCT: 16 25-pound cartons of shelled walnuts at Minneapolis, Minn.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of moldy walnuts.

DISPOSITION: July 19, 1945. The Tew-Harper Co., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

8274. Adulteration of walnuts. U. S. v. 4 Cases and 84 Cases of Shelled Walnuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 15920, 15921. Sample Nos. 28815-H, 28816-H.)

LIBEL FILED: May 12, 1945, Western District of Washington.

ALLEGED SHIPMENT: On or about March 21, 1945, by the California Walnut Growers Association, Inc., from Los Angeles, Calif.

PRODUCT: 4 cases, each containing 6 5-pound packages, of shelled walnuts and 84 cases, each containing 25 pounds, of shelled walnuts at Seattle, Wash.

LABEL, IN PART: "Emerald Brand Shelled Walnuts."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of insect-damaged and moldy nuts.

DISPOSITION: May 17, 1945. The California Walnut Growers Association, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

8275. Adulteration of shelled walnuts. U. S. v. 50 Cases of Shelled Walnuts. Default decree ordering product disposed of for animal feed. (F. D. C. No. 16257. Sample No. 25537-H.)

LIBEL FILED: May 29, 1945, District of Utah.

ALLEGED SHIPMENT: On or about June 20, 1944, by the Herman C. Fisher Co., from Orange, Calif.

PRODUCT: 50 25-pound cases of shelled walnuts at Salt Lake City, Utah.

LABEL, IN PART: "California Shelled Walnuts Excel."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, larvae, insect excreta, and webbing.

DISPOSITION: July 28, 1945. No claimant having appeared, judgment was entered ordering the product delivered to the United States marshal, to be disposed of for animal feed under his supervision.

8276. Adulteration of walnut meats. U. S. v. 143 Cartons of Walnut Meats. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16045. Sample No. 5892-H.)

LIBEL FILED: April 19, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about February 24, 1945, by the Whittier Walnut Packing Co., El Monte, Calif.

PRODUCT: 143 25-pound cartons of walnut meats at New York, N. Y.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of insect-infested and moldy walnut meats.

DISPOSITION: May 9, 1945. The Whittier Walnut Packing Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be cleaned in order to eliminate all filth, under the supervision of the Food and Drug Administration.

8277. Adulteration of shelled walnuts. U. S. v. 500 Boxes of Shelled Walnuts. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 15947. Sample No. 18352-H.)

LIBEL FILED: April 21, 1945, Northern District of Iowa.

ALLEGED SHIPMENT: On or about March 5, 1945, by the L. R. Stone Co., from Los Angeles, Calif.

PRODUCT: 500 25-pound boxes of shelled walnuts at Sioux City, Iowa.

LABEL, IN PART: "Esquire Pack Light Walnut Meat Pieces."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of insect-infested and moldy walnuts.

DISPOSITION: June 12, 1945. The L. R. Stone Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

8278. Adulteration of walnut meats. U. S. v. 37 Cartons of Walnut Meats. Default decree of condemnation and destruction. (F. D. C. No. 15862. Sample Nos. 26645-H, 26647-H, 26648-H.)

LIBEL FILED: On or about April 6, 1945, District of Colorado.

ALLEGED SHIPMENT: On or about December 8, 1944, and February 4 and March 3, 1945, by the Richards Candy Co., from Salt Lake City, Utah.

PRODUCT: 37 cartons, each containing 25 pounds, of walnut meats at Denver Colo.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of worm-damaged and moldy walnut meats.

DISPOSITION: June 23, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

OILS AND FATS

8279. Adulteration of lard. U. S. v. 14 Drums of Lard. Default decree of condemnation and destruction. (F. D. C. Nos. 16807, 16808. Sample Nos. 9254-H, 9256-H.)

LIBELS FILED: July 30, 1945, Western District of New York.

ALLEGED SHIPMENT: On or about May 3, 4, and 8, 1945, by the War Food Administration, from New Albany, Ind.

PRODUCT: 11 drums and 3 drums, each containing 400 pounds of lard, at Buffalo, N. Y. This product had been rejected by the consignee at Buffalo, N. Y., because of damage in transit.

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances by reason of the presence of dirt and mold.

DISPOSITION: July 30, 1945. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

8280. Adulteration and misbranding of oil. U. S. v. 22 Cans of Oil (and 3 other seizure actions against oil). Consent decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 14023, 14026, 14028, 14037. Sample Nos. 82289-F, 82291-F to 82293-F, incl., 82295-F, 82296-F, 82298-F, 82299-F.)

LIBELS FILED: October 11 and 13, 1944, Eastern District of New York.

ALLEGED SHIPMENT: Between the approximate dates of June 7 and August 10, 1944, by the Lucatelli Packing Co. and the New Jersey Importing Co., from West New York, N. J.

PRODUCT: 27 cases and 24 cases, each containing 6 cans, of oil, and 22 cans and 15 cans of oil at Brooklyn, N. Y. These products differed from their declared composition and were also short-volume. A portion contained undeclared artificial color.

LABEL, IN PART: (Cans) "One Gallon Net" Superfine Product Cimarosa Brand 100% Pure Fine Cottonseed, Peanut, Corn, and Extra Virgin Olive Oil," or "One Gallon Net Lucatelli Brand Choice Peanut Oil Blended with Olive Oil."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), Cimarosa brand, a mixture of cottonseed oil and an oil similar to soybean oil, containing little, if any, peanut, corn, or olive oil and in part artificially colored, had been substituted in whole or in part for "100% Pure Fine Cottonseed, Peanut, Corn, and Extra Virgin Olive Oil." Further adulteration of portions, Section 402 (b) (4), artificial color had been added to the article and mixed or packed with it so as to make it appear better and of greater value than it was; and, Section 402 (c), it contained a coal-tar color that had not been listed as harmless and suitable for use in foods in accordance with regulations and was other than one from a batch that had been certified. Misbranding, Section 403 (a), the statement, "100% Pure Fine Cottonseed, Peanut, Corn, and Extra Virgin Olive Oil," was false and misleading; Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents; and, Section 403 (k), a portion contained artificial coloring, and its label failed to state that fact.

Adulteration, Section 402 (b) (2), Lucatelli brand, a substance consisting essentially of peanut oil and cottonseed oil, containing little or no olive oil, had been substituted in whole or in part for "Choice Peanut Oil Blended with Olive Oil." Misbranding, Section 403 (a), the following and similar label statements in a foreign language were false and misleading: "Choice Peanut Oil Blended with Olive Oil," and "However, in order to further improve our product, we have added a generous portion of one hundred per cent pure virgin Olive Oil, the result being a superior blended oil of extra fine quality and delicate flavor, guaranteed to satisfy the taste of the most discriminating consumers"; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: September 4, 1945. The cases having been consolidated and the Lucatelli Packing Co., claimant, having admitted the allegations of the libels, judgment of condemnation was entered and the product was ordered released under bond for relabeling and refilling under the supervision of the Federal Security Agency.

8281. Misbranding of olive oil. U. S. v. 531 Cases of Olive Oil. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16345. Sample Nos. 29486-H, 29487-H.)

LIBEL FILED: June 7, 1945, District of Massachusetts.

ALLEGED SHIPMENT: On or about May 24, 1945, by the Coronet Olive Oil Co., from Oroville, Calif.

PRODUCT: 531 cases, each containing 12 bottles, of olive oil at Boston, Mass. Examination showed that the article was short-volume.

LABEL, IN PART: "Coronet 100% Pure California Olive Oil * * * Contents One Quart."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: July 7, 1945. The Catania Importing Co., Inc., Boston, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law by filling the bottles to the declared volume, under the supervision of the Federal Security Agency.

8282. Misbranding of French sauce. U. S. v. 8 Cases of French Sauce. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 16377. Sample No. 5900-H.)

LIBEL FILED: June 22, 1945, Southern District of New York.

ALLEGED SHIPMENT: On or about May 14, 1945, by the Mosness Food Products Co., from Allston (Boston), Mass.

PRODUCT: 8 cases, each containing 24 10-ounce bottles, of French sauce at New York, N. Y.

LABEL, IN PART: "Mos-ness French Sauce Delicious on all kinds of Salads Non-fattening."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the label statement "Non-fattening" was false and misleading as applied to the article, which contained substantial quantities of oil and sugar; and, Section 403 (f), the label statements of the names of the ingredients and of the quantity of the contents, required by Section 403 (i) (2) and Section 403 (e) (2), were not prominently placed with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render them likely to be read by the ordinary individual under customary conditions of purchase and use, since they were printed in very small type.

DISPOSITION: August 17, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions, with the exception of 10 bottles which were ordered delivered to the Food and Drug Administration.

MISCELLANEOUS FOOD PRODUCTS

8283. Adulteration of soup mixes. U. S. v. 35 Cartons of Soup Mixes. Default decree of forfeiture and destruction. (F. D. C. No. 15910. Sample No. 18628-H.)

LIBEL FILED: April 13, 1945, Western District of Wisconsin.

ALLEGED SHIPMENT: On or about August 23, 1944, by Wilson and Co., from Albert Lea, Minn.

PRODUCT: 35 cartons, each containing 48 envelopes, of soup mixes at Superior, Wis.

LABEL, IN PART: "Cream of Mushroom [or "Beef Noodle," or "Noodle"] Soup Mix."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of weevils and larvae.

DISPOSITION: May 16, 1945. No claimant having appeared, judgment of forfeiture was entered and the products were ordered destroyed.

8284. Adulteration of solid glucose. U. S. v. 301 Bags and 140 Bags of Solid Glucose. Decree of condemnation. Product ordered released under bond. (F. D. C. Nos. 15940, 15941. Sample No. 31521-H.)

LIBEL FILED: April 19, 1945, Southern District of California.

ALLEGED SHIPMENT: On or about October 12, 1944, by the Moskowitz Flour Corporation, from New York, N. Y.

PRODUCT: 441 bags of solid glucose at Los Angeles, Calif.

LABEL, IN PART: "Solid Glucose Made in Argentina Dextrosa de Maiz (Glucosa Solida Industrial) Peso Neto 60 Kgs."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, beetles, weevils, larvae, and insect fragments.

DISPOSITION: May 7, 1945. Allied Foods, claimant for a portion of the product, and the Missouri Pickle Co., claimant for the remainder, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

8285. Adulteration of Italian rennet. U. S. v. 2 Boxes of Italian Rennet. Default decree ordering product destroyed unless denatured for use as animal food. (F. D. C. No. 16018. Sample No. 18631-H.)

LIBEL FILED: May 9, 1945, District of Minnesota.

ALLEGED SHIPMENT: On or about April 13, 1945, by John B. Torresin, from Fond du Lac, Wis.

PRODUCT: 2 boxes containing a total of 174 pounds of Italian rennet at Duluth, Minn.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, wood and plant fibers, and hairs resembling those of rodents, cows, and goats; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 13, 1945. No claimant having appeared, judgment was entered ordering the product destroyed unless denatured for use as animal food.

8286. Adulteration of salt. U. S. v. 48 Bags of Salt. Decree of condemnation and destruction. (F. D. C. No. 16055. Sample No. 4228-H.)

LIBEL FILED: April 23, 1945, District of New Jersey.

ALLEGED SHIPMENT: On or about November 28, 1944, from Ludlowville, N. Y.

PRODUCT: 48 50-pound bags of salt at Atlantic City, N. J., in the possession of the Packman Brothers. The product was stored under insanitary conditions after shipment. Rodent pellets and urine stains were observed on the bags. Examination showed that the article was contaminated with urine.

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 22, 1945. The sole intervener having withdrawn its claim, judgment of condemnation was entered and the product was ordered destroyed.

8287. Adulteration of Oregano (spice). U. S. v. 24 Cartons of Oregano. Default decree of condemnation and destruction. (F. D. C. No. 16276. Sample No. 6065-H.)

LIBEL FILED: May 21, 1945, Eastern District of New York.

ALLEGED SHIPMENT: On or about February 27, 1945, by the Frank Tea and Spice Co., from Cincinnati, Ohio.

PRODUCT: 24 cartons, each containing 24 1½-ounce jars, of Oregano at Brooklyn, N. Y.

LABEL, IN PART: "Franks Dove Brand Oregano Mexican For use in salads, soups, sausage."

VIOLATION CHARGED: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of stones.

DISPOSITION: July 23, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8288. Misbranding of Beni Shoga (preserved ginger root). U. S. v. 198 Cases of Beni Shoga. Consent decree of condemnation. Product ordered released for relabeling. (F. D. C. No. 15893. Sample No. 29365-H.)

LIBEL FILED: April 9, 1945, District of Hawaii.

ALLEGED SHIPMENT: On or about March 8, 1945, by Del Valle, Kahmon & Co., from San Francisco, Calif.

PRODUCT: 198 cases, each containing 24 jars, of Beni Shoga at Honolulu, T. H. The product consisted of unpeeled ginger root, packed in vinegar and brine. It was short of the declared weight.

LABEL, IN PART: "Hinode Brand Beni Shoga Weight 9 Oz. Ginger Salt Chiso Vinegar Certified Coloring Added Denver Preserving Company, Denver, Colorado."

VIOLATION CHARGED: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: August 22, 1945. Fujii Junichi Shoten, Ltd., Honolulu, T. H., claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released for relabeling under the supervision of the Food and Drug Administration.

VITAMIN PREPARATIONS AND FOODS FOR SPECIAL DIETARY USES

8289. Adulteration and misbranding of Di-Phocal. U. S. v. 86 Bottles of Di-Phocal. Default decree of condemnation and destruction. (F. D. C. No. 16773. Sample No. 24051-H.)

LIBEL FILED: On or about July 6, 1945, Southern District of Alabama.

ALLEGED SHIPMENT: On or about March 7 and April 17, 1945, by the Texas Pharmacal Co., from San Antonio, Tex.

PRODUCT: 86 1-pint bottles of Di-Phocal at Mobile, Ala. Examination showed that the product contained not more than 65 percent of the declared amount of vitamin D.

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in whole or in part omitted from the article.

Misbranding, Section 403 (a), the label statements, "Each fluid ounce contains approximately * * * Vitamin D 2,000 Units U. S. P. XI * * * This dosage supplies * * * three times the daily minimum requirement of Vitamin D," were false and misleading as applied to an article which contained less than that amount of vitamin D.

DISPOSITION: August 10, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8290. Adulteration and misbranding of Super Multi-Caps. U. S. v. 28 Dozen Bottles of Super Multi-Caps. Consent decree of forfeiture. Product ordered released under bond. (F. D. C. No. 16860. Sample No. 23805-H.)

LIBEL FILED: July 20, 1945, Northern District of Texas.

ALLEGED SHIPMENT: On or about December 14, 1944, by Oxford Products, Inc., from Cleveland, Ohio.

PRODUCT: 28 dozen bottles of Super Multi-Caps at Dallas, Tex. Examination showed that the product contained not more than 50 percent of the declared amounts of vitamins A and D.

LABEL, IN PART: "Super Multi-Caps 9 Vitamins."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), valuable constituents, vitamins A and D, had been in whole or in part omitted from the article.

Misbranding, Section 403 (a), the label statements, "Contents 100 Tabsules Super Multi-Caps 9 Vitamins Each Tabsule Contains Vitamin A 5000 U. S. P. Units Vitamin D 800 U. S. P. Units," were false and misleading since the article contained less than the stated amounts of vitamins A and D.

DISPOSITION: September 14, 1945. Oxford Products, Inc., claimant, having admitted the facts of the libel, judgment of forfeiture was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

8291. Adulteration and misbranding of Watkins Vitamin B Complex Tablets. U. S. v. 1,200 Dozen Bottles of Vitamin B Complex Tablets. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 16214. Sample No. 21815-H.)

LIBEL FILED: May 25, 1945, Western District of Tennessee.

ALLEGED SHIPMENT: On or about November 3 and 30, 1944, by the J. R. Watkins Co., from Winona, Minn.

PRODUCT: 1,200 dozen bottles, each bottle containing 150 vitamin B complex tablets, at Memphis, Tenn. Examination showed that the product was 20 percent deficient in vitamin B₁.

LABEL, IN PART: "Watkins 7½-grain 150 Natural Vitamin B Complex Tablets."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B₁, had been in part omitted from the product.

Misbranding, Section 403 (a), the label statements, "Each Tablet assays: Vitamins B₁ (Thiamin 85 I. U.) 255 Micrograms * * * Proper maintenance of health requires these vitamins which are often deficient in the diet," were false and misleading since the article contained less than the labeled amount of vitamin B₁, and proper maintenance of health does not require the use of a product of this nature.

Further misbranding, Section 403 (f), the information concerning the vitamin properties of the article, required by Section 403 (j) to appear on the label, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices on the label) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use, since it appeared on the side panel at right angles to the main display panel.

DISPOSITION: August 18, 1945. The J. R. Watkins Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

S292. Adulteration and misbranding of vitamin A & D tablets and vitamin B complex tablets. U. S. v. Alfred O. Barnes and Oliver C. Rapier, Jr. (S. O. Barnes & Son). Pleas of not guilty. Tried to the court. Verdict of guilty. Each defendant fined \$50 on each of 4 counts. On appeal, judgment affirmed on counts 1, 3, and 4 and reversed on count 2. (F. D. C. No. 5503. Sample Nos. 61358-E, 74979-E.)

INFORMATION FILED: August 24, 1942, Southern District of California, against Alfred O. Barnes and Oliver C. Rapier, Jr., copartners trading as S. O. Barnes & Son, at Gardena, Calif. The defendants were charged with giving a false guaranty. The guaranty was given to the McCollum Laboratories, Inc., Hollywood, Calif., on or about January 2, 1941. It provided that the article comprising each shipment or delivery made by the defendants to the latter firm would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act. Between the approximate dates of July 12 and 23, 1941, the defendants sold and delivered to the McCollum Laboratories, Inc., a quantity of vitamin A & D tablets; and during the same period the McCollum Laboratories, Inc., shipped from the State of California into the State of Oregon a quantity of the vitamin A & D tablets which had been delivered to it and guaranteed by the defendants.

In addition, it was charged that the defendants shipped, on or about December 3, 1941, a quantity of vitamin B complex tablets from the State of California into the State of New York.

LABEL, IN PART: (Vitamin A & D Tablets) "McCollum's Vitamin A & D Tablets Each tablet contains Carotin and Irradiated Yeast. Net Contents 60 Tablets Distributed By McCollum Laboratories, Inc. P. O. Box 69 Hollywood, Calif. Directions 2 to 4 tablets daily. Each tablet contains 3,000 International Units of Vitamin A from Carotin, and 300 International Units of Vitamin D from Irradiated Yeast"; (Vitamin B Tablets) "Natural Vitamin B Complex Each tablet contains the following members of Vitamin B Complex natural to yeast. 100 Int. Units—B-1 60 Gammas—B-2 50 Gammas—B-6 Filtrate Factor 17-25 Jukes-Lepkovsky Units .15 mgm. Anti-Pellagra Factor Contents 100 Tablets Prepared for and distributed by John X. Loughran 17234 So. Main St., Gardena, Calif."

VIOLATIONS CHARGED: Vitamin A & D tablets, adulteration (count 1), Section 402 (b) (1), valuable constituents, vitamin A and vitamin D, had been in part omitted from the product in that the product purported to be and was represented to contain in each tablet 3,000 International Units of vitamin A and 300 International Units of vitamin D, whereas the product contained in each tablet not more than 2,400 U. S. P. units of vitamin A, and not more than 150 U. S. P. units of vitamin D. (By definition, the U. S. P. and the International Units of vitamins A and D are the same.) Misbranding (count 2), Section 403 (a), the label statement, "Each tablet contains 3,000 International Units of Vitamin A * * * and 300 International Units of Vitamin D," was false and misleading.

Vitamin B complex tablets, adulteration (count 3), Section 402 (b) (1), a valuable constituent, vitamin B₂ (riboflavin), had been in part omitted from the product in that the product purported to contain in each tablet 60 gammas of vitamin B₂ (riboflavin), whereas each tablet contained not more than 40 gammas of vitamin B₂. Misbranding (count 4), Section 403 (a), the label statement, "Each tablet contains * * * 60 gammas—B-2," was false and misleading; and the label statement "Vitamin B Complex" was misleading since it suggested and implied that the product contained consequential amounts of all members of the vitamin B complex for which a need in human nutrition is recognized, whereas the product contained inconsequential amounts of riboflavin and nicotinic acid, which are members of the vitamin B complex and for which a need in human nutrition is recognized.

DISPOSITION: November 17, 1942. A plea of not guilty having been entered, the case was tried before the court. At the conclusion of the trial, the court returned a verdict of guilty on all 4 counts, and each defendant was fined \$50 on each count. An appeal was then taken to the United States Circuit Court of Appeals for the 9th Circuit, and on May 8, 1944, that court affirmed the judgment of the district court on counts 1, 3, and 4 and reversed the judgment on count 2, handing down the following memorandum opinion:

DENMAN, Circuit Judge: "This is an appeal from a judgment of the district court finding Alfred O. Barnes and Oliver C. Rapier, Jr., guilty on all four counts of an information charging them with violating the Federal Food, Drug and Cosmetics Act.

"The defendants entered a plea of not guilty. The case was tried by the court, defendants having waived a jury. A decree was entered finding them guilty as charged and fines of \$50.00 were imposed on each defendant for violation of each count.

"The defendants, Barnes and Rapier, are co-partners trading as S. O. Barnes & Son, and are engaged in the manufacture of pharmaceutical products on specification for dealers in those products. Their plant is in Gardena, California.

"The first two counts of the information charged them with having given a false guaranty in violation of 21 U. S. C. § 331 (h). The first count was predicated on falsity arising out of shipping adulterated food under a guaranty. The second count was predicated on falsity arising out of misbranding. Under the statute, adulteration of food is in part defined as the omission in whole or in part of any valuable constituent of a product. 21 U. S. C. § 342 (b) (1). Misbranding is in part defined as false labeling in any particular. 21 U. S. C. § 343 (a).

"In support of these charges it was alleged and found that a guaranty of the nature described in 21 U. S. C. § 333 (c) (2) was executed by S. O. Barnes & Son in favor of McCollum Laboratories, Inc., of Hollywood, California, on January 2, 1941, providing that '* * * no food * * * constituting or being part of any shipment or other delivery now or hereafter made * * * will * * * be adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetics Act.' It was further guaranteed '* * * that the vitamin potency of the Vitamin A & D Tablets as furnished by us to the McCollum Laboratories, shall not be below the potency' of '* * * 3000 I. U. Vitamin A per tablet' and '* * * 300 I. U. Vitamin D per tablet.' It was also provided that the guaranty should be continuing and binding until revoked.

"Under the present Act persons are subject to its penalties for introducing or delivering for introduction into interstate commerce any food that is adulterated or misbranded. 21 U. S. C. § 331 (a). But liability may be avoided if such persons have obtained a guaranty of the person from whom they in good faith received the product. 21 U. S. C. § 333 (c) (2). Under such circumstances, the liability is then imposed upon the guarantor. This imposition of liability is obtained through 21 U. S. C. § 331 (h) which creates a penalty for the giving of a false guaranty. Thus under the statutory scheme the falsity described in the latter section must be defined in terms of the conduct prohibited by § 331 (a).

"During July of 1941 certain deliveries of vitamin tablets were made for McCollum Laboratories by defendants for delivery into interstate commerce from Gardena, California, to Portland, Oregon. The labels on the bottles containing the tablets represented their vitamin content to be 3000 I. U. of A and 300 I. U. of D. It was found that the tablets were deficient in both vitamins.

"Appellants' chief contention regarding the first two counts is that they fail to charge a crime under 21 U. S. C. § 331 (h), for there was no allegation that the guaranty was false at the time of its execution and that the shipments in July of tablets not conforming to the terms of the guaranty given seven months previously cannot make false that which was made in good faith at the time of its execution.

"We cannot agree that these counts fail to charge a violation of the statute. By the terms of the guaranty alleged and proved, it was intended to cover all deliveries of vitamin tablets to McCollum Laboratories until revoked. It was alleged and proved that no revocation had been made prior to the deliveries of the deficient tablets. Regardless of the administrative regulations relied upon by the appellee giving the exemption of 21 U. S. C. 333 (c) (2) to the holder of a continuing guaranty, 21 C. F. R. § 1.19, we believe a fair interpretation of the statute prohibiting the giving of false guaranties clearly includes an agreement between parties who intend that it shall cover each of a series of transactions. But we agree with appellants' further contention that counts one and two merely charge one offense. Under the facts there was only one guaranty and its falsity, though by definition amounting to adulteration and misbranding, in truth arose out of the same deficiency of vitamin potency in the tablets. It is permissible to allege the commission of an offense in several separate counts, *United States v. Schider*, 246 U. S. 519, but if proof of guilt

under each count rests upon the same facts it is error to impose separate sentences or fines for each count. *Chrysler v. Zerbst*, 81 F. (2d) 975 (CCA-10). Thus the trial court erred in levying separate fines upon defendants for the violations of both count one and count two of the information.

"The third and fourth counts of the information charged defendants with introducing into interstate commerce a consignment of adulterated and misbranded tablets from Gardena, California, to Dr. John X. Loughran of Long Island, New York. These tablets were contained in bottles labeled Vitamin B Complex followed by representations of quantities of the various constituent elements of that vitamin complex, including 60 Gammas of B-2 (Riboflavin). It was alleged and proved that these tablets contained not more than 40 Gammas of B-2. Such a disparity between the quantity represented and the amount actually present in the tablets is obviously within the prohibition of the Act.

"The fourth count alleged further that the statement 'Vitamin B Complex' on the label was misleading to the consuming public for it suggested and implied that the tablets contained consequential amounts of all the elements of the complex when, in fact, these tablets had inconsequential amount of B-2 and nicotinic acid.

"Appellants do not contest the drawn inference of misbranding arising out of the use of the term Vitamin B Complex, but assert that the third and fourth counts fail to charge an offense because it is clear from the label that it was designed by Dr. Loughran and therefore they cannot be liable for any direct or implied representations arising from its use. It was further asserted in their defense that they were but little better than bailees at the time of the shipment.

"The broad language of the statute does not permit such defenses. It is directed to *any* person who introduces or delivers for introduction into interstate commerce any food that is adulterated or misbranded. Commerce so used in the statute is not confined in meaning to the actual transportation of articles across state lines, but includes the whole transaction of which such transporting is a part, *Santa Cruz v. Labor Board*, 303 U. S. 453, 463; *Dahnke-Walker Co. v. Bondurant*, 257 U. S. 282, 291, and it cannot be qualified or avoided by the technicalities of the law of sales regarding passing of title. *Dozier v. Alabama*, 218 U. S. 124, 128. Thus even assuming appellants were but agents or bailees of the vendee at the time of delivery of the product to the carrier for shipment to New York, they nonetheless were within the purview of the Act. *Lynch v. Magnavox Co.*, 94 F. (2d) 883, 890 (CCA-9). Nor can liability be avoided by one who manufactures or processes foods by the fact that the product conforms to an order and the labels describing the product are supplied by the vendee.

The purpose of the Act is the protection of the consuming public. *McDermott v. Wisconsin*, 228 U. S. 115, 130. Those who ship in interstate commerce products coming within the scope of its protection must do so at their peril if the standards of the Act are not observed. *United States v. Dotterweich* (November 22, 1943) 320 U. S. 277.

"The judgment is reversed as to the conviction on the second count. Otherwise it is affirmed."

STEPHENS, *Circuit Judge, concurring and dissenting*: "I concur in the affirmation of the judgment pronounced by virtue of conviction under counts one, three and four of the indictment. I dissent as to the reversal of the judgment pronounced by virtue of conviction under count two of the indictment. I think the indictment states separate offenses as to counts one and two.

"If I am wrong in this, and I think I am not, then I am at a loss to know by what authority this court elects to affirm the judgment under count one rather than under count two. Here are two separate convictions under separate counts for which the court pronounced two separate penalties. The majority state that the counts are based upon different acts. I quote from the opinion. 'The first count was predicated on falsity arising out of shipping adulterated food under a guaranty. The second count was predicated on falsity arising out of misbranding.' The fact that the court thought the defendants should be punished as severely for one as for the other infraction does not solve the difficulty. If the trial court had given twice the penalty under count one that it did under count two, by what token would the court decide to affirm as to one and reverse as to the other?"

8293. Adulteration and misbranding of vitamin B₁ and papaya tablets. U. S. v. 20,000 Vitamin B₁ and Papaya Tablets. Default decree of condemnation and destruction. (F. D. C. No. 16917. Sample 31211-H.)

LIBEL FILED: July 24, 1945, Western District of New York.

ALLEGED SHIPMENT: On or about March 22, 1945, by William G. Eckert, from Los Angeles, Calif.

PRODUCT: 1 can containing 20,000 vitamin B₁ and papaya tablets at Rochester, N. Y. Examination showed that the product contained not more than 70 percent of the declared amount of vitamin B₁.

LABEL, IN PART: "Vitamin B₁ and Papaya Tablets * * * Contains Vitamin B₁ 333 i. u."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B₁, had been in whole or in part omitted from the article.

Misbranding Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its vitamin B₁ content, but its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirement of vitamin B₁ furnished by a specified quantity of the product when consumed during a period of 1 day.

DISPOSITION: September 14, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8294. Adulteration and misbranding of unflavored gelatin with vitamin B₁. U. S. v. 3 Cartons of Unflavored Gelatin with B₁. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 16074. Sample No. 31953-H.)

LIBEL FILED: May 2, 1945, District of Arizona.

ALLEGED SHIPMENT: On or about May 6, 1944, by the Ben Hur Products Co., from Los Angeles, Calif.

PRODUCT: 3 cartons, each containing 9 dozen packages of 5 envelopes each, of unflavored gelatin with vitamin B₁, at Phoenix, Ariz. Examination showed that the product was approximately 40 percent deficient in vitamin B₁.

LABEL, IN PART: "Ben-Hur Supreme Quality Genuine Calf Plain, Unflavored U. S. P. Gelatin with Vitamin B₁."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B₁, had been in part omitted from the article.

Misbranding, Section 403 (a), the statement on the package, "333 U. S. P. Units Vitamin B₁ in each envelope herein. Contains 5 envelopes. Thus each furnishes minimum adult daily requirement of vitamin B₁," and the statement on the envelopes, "300 International Units of Vitamin B₁ added," were false and misleading as applied to an article containing less than the stated amounts of vitamin B₁.

DISPOSITION: September 18, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

8295. Misbranding of American Calcium Pantothenate. U. S. v. 89 Dozen Bottles of American Calcium Pantothenate and a Quantity of Printed Matter. Default decree of condemnation and destruction. (F. D. C. No. 16072. Sample No. 31214-H.)

LIBEL FILED: May 11, 1945, Southern District of California.

ALLEGED SHIPMENT: From Chicago, Ill., by the American Beauty Products Co. The bottles were shipped between the approximate dates of March 28 and May 2, 1945. The date of the shipment of the printed matter was alleged to be unknown.

PRODUCT: 89 dozen bottles of American Calcium Pantothenate, 4 catalogs entitled "City Catalog No. 80" or "City Catalog No. 81," and 24 display cards, at Los Angeles, Calif. Examination showed that the product consisted of tablets containing calcium pantothenate.

VIOLATION CHARGED: Misbranding, Section 403 (a), the following statements in the labeling of the article were false and misleading since the article was not of value in the conditions stated and implied: (Catalog) "Anti-Gray Hair And Nail Vitamins (Calcium-Pantothenate Dextrorotatory) Now you can sell Calcium Pantothenate Vitamins to your patrons. Good Housekeeping Bureau experiments of 16 months showed that 88 per cent of men and women subjected to the tests showed positive evidence of a return of natural hair

color. It revealed also definite improvement in the texture of the skin and the elasticity of the finger nails. * * * For Gray Hair * * * American's Anti-Gray Vitamin * * * Newest Vitamin Discovery, Good Housekeeping tests showed 88% return of hair color"; (Display card) "Anti-Gray Hair (Factor) Vitamins * * * 88% Return of Hair Color!"

It was also alleged that another article, Beautician's Mange Treatment, was misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

DISPOSITION: June 5, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8296. Misbranding of calcium pantothenate tablets. U. S. v. 55 $\frac{7}{12}$ Dozen Packages of Calcium Pantothenate. Default decree of condemnation and destruction. (F. D. C. No. 16105. Sample Nos. 23822-H, 23841-H.)

LIBEL FILED: May 8, 1945, Northern District of Texas.

ALLEGED SHIPMENT: On or about October 2, 1944, and January 29, 1945, by the American Beauty Products Co., from Chicago, Ill.

PRODUCT: 55 $\frac{7}{12}$ dozen packages of calcium pantothenate at Dallas, Tex. Examination of a sample showed that the article consisted of tablets containing approximately 10 milligrams of calcium pantothenate.

VIOLATION CHARGED: Misbranding, Section 403 (a), the following statements in the labeling (catalog entitled "City Catalog No. 81") were false and misleading: "Anti-Gray Hair and Nail Vitamins (Calcium-Pantothenate Dextrorotatory) Now you can sell Calcium Pantothenate Vitamins to your patrons. Good Housekeeping Bureau experiments of 16 months showed that 88 per cent of men and women subjected to the tests showed positive evidence of a return of natural hair color. It revealed also definite improvement in the texture of the skin and the elasticity of the finger nails. * * * For Gray Hair * * * Anti-Gray Vitamin * * * Newest Vitamin Discovery. Good Housekeeping tests showed 88% return of hair color." The product was of no value in the conditions and for the purposes stated and implied in the quoted statement.

DISPOSITION: June 11, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8297. Adulteration and misbranding of vitamin C tablets. U. S. v. 137 Bottles, 260 Bottles, and 33 Bottles of Vitamin C Tablets. Default decree of destruction. (F. D. C. No. 14335. Sample No. 66983-F, 81093-F, 81094-F.)

LIBEL FILED: On or about November 8, 1944, Western District of Missouri.

ALLEGED SHIPMENT: Between the approximate dates of July 3 and September 7, 1943, by Oxford Products, Inc., from Cleveland, Ohio.

PRODUCT: 137 bottles, each containing 40 25-milligram tablets, 260 bottles, each containing 40 50-milligram tablets, and 33 bottles, each containing 40 100-milligram tablets, of vitamin C at Kansas City, Mo. The 50-milligram size tablets were more than 50 percent deficient in vitamin C.

LABEL, IN PART: "40 C. T. Tablets Vitamin C."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), (50-milligram size tablets only) vitamin C had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the statement on the labels of all lots, "Indicated as a vitamin supplement in dental caries, pyorrhea, certain gum infections, anorexia, anemia under nutrition and infections when these are consequences of a vitamin C deficiency," was false and misleading since it represented and suggested that the article would be effective in the treatment of the conditions stated; whereas the article would not be efficacious for such purposes.

Further misbranding, Section 403 (a), the statement on the label of the 50-milligram size tablets, "40 C. T. Tablets Vitamin C (Ascorbic Acid) 50 MG Each Tablet Contains 1000 U. S. P. Units of Vitamin C which is 1 $\frac{2}{3}$ Times Daily Requirements," was false and misleading since the tablets did not contain the stated amount of vitamin C.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

DISPOSITION: March 24, 1945. No claimant having appeared, judgment was entered ordering that the product be destroyed.

8298. Adulteration and misbranding of High Potency Vitamin B Complex and misbranding of Pure Soy Bean Oil Lecithin. U. S. v. 3 Bottles of Pure Soy Bean Oil Lecithin, 10 Bottles of High Potency Vitamin B Complex, and a Number of Leaflets. Default decree of condemnation and destruction. (F. D. C. No. 16286. Sample Nos. 28381-H, 28383-H.)

LIBEL FILED: May 25, 1945, Western District of Washington.

ALLEGED SHIPMENT: From Los Angeles, Calif., by Ruth Clark Products. The products were shipped on or about March 9, 1945, and the leaflets were shipped on or about March 1, 1945.

PRODUCT: 3 13-ounce bottles of Pure Soy Bean Oil Lecithin, 10 100-tablet bottles of High Potency Vitamin B Complex, and a number of leaflets entitled "Ruth Clark Products," at Tacoma, Wash. Examination disclosed that the Pure Soy Bean Oil Lecithin was essentially a mixture of oil, such as soybean oil, and partially refined sugar syrup; and that the High Potency Vitamin B Complex Tablets consisted essentially of yeast, starch, kaolin, and very small amounts of dried parsley, dried kelp, dried dandelion leaf, and other organic matter, containing, per tablet, 23.8 milligrams of iron (or 2.20 grains of iron per 6 tablets).

VIOLATIONS CHARGED: Pure Soy Bean Oil Lecithin, misbranding, Section 403 (a), certain statements in the leaflets were false and misleading since they represented and suggested that lecithin is a substance essential in the nutrition of man; that ordinary diets supply an inadequate amount of lecithin; and that the article would be effective to correct or prevent lassitude, slackness, nervousness, insomnia, debility, and improper nerve functioning. Lecithin is not a substance essential in the nutrition of man; ordinary diets supply an adequate amount of lecithin; and the article would not be effective to correct or prevent the conditions and symptoms mentioned.

High Potency Vitamin B Complex, adulteration, Section 402 (b) (1), a valuable constituent, iron, had been in part omitted from the article. Misbranding, Section 403 (a), the following statement on the label of the article and in the leaflet, "Six tablets daily supplies * * * Reduced Iron 3 grains," was false and misleading as applied to a product which did not contain the stated amount of iron; and certain statements on the label and in the leaflet were false and misleading since they represented and suggested that the article supplied nutritionally significant amounts of vegetables, whereas the article did not supply nutritionally significant amounts of vegetables. Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its vitamin B₁, vitamin B₂, vitamin B₆, pantothenic acid, calcium pantothenate, niacin, iron, and filtrate factor content, but its label failed to bear, as the regulations require, a statement of the proportion of the minimum daily requirements of vitamin B₁, vitamin B₂, and iron furnished by a specified quantity of the product when consumed during a period of 1 day; and its label also failed to bear the required statement that the need in human nutrition for vitamin B₆, pantothenic acid, calcium pantothenate, and filtrate factor has not been established.

The articles were also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

DISPOSITION: August 21, 1945. No claimant having appeared, judgment of condemnation was entered and the products, including the leaflets, were ordered destroyed.

8299. Misbranding of Pa-Poya. U. S. v. 12 Jugs and 5 Bottles of Pa-Poya. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 16127. Sample No. 2873-H.)

LIBEL FILED: May 9, 1945, District of Columbia.

ALLEGED SHIPMENT: From Miami, Fla., by the Tropical Fruits Laboratory.

PRODUCT: 12 1-gallon jugs of Pa-Poya, together with a quantity of the same product, repacked from gallon containers into 4 1-quart bottles and 1 1-pint bottle. The product was offered for sale while in possession of the Citrus Juice Co., Washington, D. C. Examination showed that the product was a clear liquid having an artificial fruit-type flavor and a burning taste. It contained not more than 4 milligrams of vitamin C per ounce, and possessed no digestive properties.

VIOLATIONS CHARGED: Misbranding (12-jug lot), Section 403 (a), the following label statements and design, "A taste of the Tropics Drink Papoya 'It will

bring you back' [picture of tree bearing papaya fruit] * * * made from the Tropical Melon, Papaya, including skin pulp and seeds * * * So rich in Natural Vitamins * * * C," were false and misleading as applied to an artificially flavored beverage containing no papaya pulp, seeds, or skin, nor characteristic papaya flavor, and providing a relatively inconsequential amount of vitamin C; and the label statements which represented and suggested that the article would be effective in the treatment, relief, or correction of indigestion, gastric disorders, irritated throats, children disorders, "morning after" disaster, stomach disorders, sore throat, eczema, acidosis, and many other ailments, were false and misleading since the article would not be effective in the treatment, relief, or correction of those conditions and diseases.

Misbranding (repacked lot), Section 403 (a), the following statements appearing on the labels furnished by the shipper and attached to the bottles containing the article, "A Tropical Fruit Beverage Concentrate containing the entire Papaya—pulp, * * * skin and seeds * * * As an aid to digestion or gastric disturbance," were false and misleading since the article did not contain the pulp, skin, or seeds of papaya and would not be effective as an aid to digestion or gastric disturbances.

Further misbranding (all lots), Section 403 (k), the article contained artificial flavor and failed to bear labeling stating that fact.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

DISPOSITION: August 21, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

8300. Misbranding of CeKelp. U. S. v. 35 Bottles of CeKelp and a Number of Circulars. Default decree of condemnation and destruction. (F. D. C. No. 16649. Sample No. 2656-H.)

LIBEL FILED: On or about July 5, 1945, Southern District of West Virginia.

ALLEGED SHIPMENT: By the Dental Research Co., from St. Petersburg, Fla. The CeKelp and some of the circulars were shipped on or about February 15, 1945, and the other circulars were shipped at earlier dates.

PRODUCT: 35 bottles, each containing 500 5-grain tablets, of CeKelp at Huntington, W. Va.; also a number of circulars entitled, "Goiter," "Arthritis," "The Anemias," "The Common Cold," and "Ce-Kelp in Sickness and Health." Examination showed that the product consisted essentially of compressed powdered kelp.

LABEL, IN PART: (Bottles) "CeKelp a Vegetable Sea Food Kelp."

VIOLATIONS CHARGED: Misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its mineral content; but its label failed to bear, as required by the regulations, the names of the specific minerals and a statement of the minimum daily requirements of each mineral furnished by a specified quantity of the article when consumed during a period of 1 day.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

DISPOSITION: August 8, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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⁸(8151) Prosecution contested. Permanent injunction issued. Contains findings of fact, conclusions of law, and order of the court.

⁹(8223), (8270) Seizure contested. Contains opinions of the court.

¹⁰(8224) Contains opinion of the court.

¹¹(8255) Prosecution contested.

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⁹(8223), (8270) Seizure contested. Contains opinions of the court.¹⁰(8224) Contains opinion of the court.¹¹(8255) Prosecution contested.¹²(8292) Prosecution contested. Contains opinion of the court.

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		Morris, John S., & Son:	
		butter	8183

⁸(8151) Prosecution contested. Permanent injunction issued. Contains findings of fact, conclusions of law, and order of the court.

⁹(8223), (8270) Seizure contested. Contains opinions of the court.

¹⁰(8224) Contains opinion of the court.

¹²(8292) Prosecution contested. Contains opinion of the court.

	N. J. No.		N. J. No.
Moskowitz Flour Corp.:		Rapier, O. C., Jr.:	
solid glucose-----	8284	vitamin A & D tablets and vita-	
Mosness Food Products Co.:		min B complex tablets-----	¹² 8292
French sauce-----	8282	Red Lake Falls Creamery:	
Muscogee Wholesale Grocers, Inc.:		butter-----	8193
sugar-----	8175	Redwood Creamery:	
Myrick, S. L.:		butter-----	8196
sirup-----	8173	Richards Candy Co.:	
National Food Products:		walnut meats-----	8278
cocoa residue powder-----	8169	Richmond-Chase Co.:	
National Starch Products, Inc.:		dried apricots-----	8227
molding starch-----	8149	Riverside Popcorn Sales:	
Nebraska Consolidated Mills Co.:		popcorn-----	8139
ground wheat and wheat germ----	8150	Rockwood & Co.:	
Nehi Corp.:		sweet chocolate-----	8166
orange juice and pulp-----	8107	Roundup Grocery Co.:	
Nemaha Cooperative Creamery As-		rice-----	8147
sociation:		Ruder, Mathie, Brewing Co.:	
butter-----	8183	corn sugar-----	8178
Nestor, I. H.:		Safeway Stores, Inc. See Fairfax	
buttermilk-----	8200	Bread Co.	
New England Fillet Co., Inc.:		St. Cloud Milling Co.:	
frozen butterfly whiting-----	8220	flour-----	8113
New Gem Theatre:		St. Marys Packing Co.:	
popcorn-----	8140	tomato puree-----	8265
New Jersey Importing Co.:		St. Paul Terminal Warehouse No. 7:	
edible oil-----	8280	shelled peanuts-----	8268
New Ulm Dairy:		St. Stephen Cooperative Creamery:	
butter-----	8192	butter-----	8194
Newman, Nat, Inc.:		Schloss Trucking Co.:	
candy-----	8162	candy-----	8152
North Ontario Dried Fruit Co.:		Schulze, Paul A., Co.:	
peach paste-----	8245	butter-----	8181
Northwest Butter and Egg Co.:		Scott Co.:	
butter-----	8189	canned sauerkraut-----	8257
Northwest Flour Co.:		Seelye, F. H.:	
macaroni flour-----	8126	candy-----	8159
Olathe Potato Growers Association,		Segal, H.:	
Inc.:		candy-----	8156
potatoes-----	8254	Smith, E. S., Co.:	
Old Dominion Peanut Corp.:		canned grapefruit juice-----	8105
peanut butter and chocolate-cov-		Sokol and Co.:	
ered peanuts-----	⁹ 8270	dried mushrooms-----	8251
Orleans Storage Co.:		Southgate Foods:	
corn grits-----	8138	peanut butter-----	8271
meal-----	8111	Staley, A. E., Manufacturing Co.:	
flour-----	8111, 8138	soy flour-----	8131
Orleans Storage Co. Warehouse:		Star Milling Co.:	
flour-----	8115	self-rising flour and plain flour---	8130
Otoe Food Products Co.:		Stephen Creamery Co.:	
canned lima beans-----	8247	butter-----	8187
Overland Terminal Warehouse:		Stock, F. W., and Sons:	
corn flour-----	8125	enriched pastry flour-----	8128
Oxford Products, Inc.:		Stone, L. R., Co.:	
Super Multi-Caps-----	8290	shelled walnuts-----	8277
vitamin C tablets-----	8297	Stuckey's:	
Pacific Raisin Co., Inc.:		pecan brittle-----	8164
raisins-----	8233	Sugar Creek Creamery Co.:	
Packman Bros.:		butter-----	8179, 8180
rice-----	8146	T & O Sales Co.:	
salt-----	8286	butter-----	8184
Pastene & Co., Inc.:		Taylor and Sledd, Inc.:	
tomato paste-----	8264	canned turnip greens-----	8258
Pastime Theatre:		Taylor, H. P., Jr., Inc.:	
popcorn-----	8143	canned turnip greens-----	8258
Paula's Lebkuchen:		Tennessee Warehouse Co.:	
candy-----	8157	corn sirup solids-----	8174
Peppard Seed Co.:		Texas Pharmacal Co.:	
popcorn-----	8144	Di-Phocal-----	8289
Perkins, D. A., Co.:		Texas Star Flour Mill:	
pancake sirup-----	8171	flour-----	8114
Pillsbury Mills, Inc.:		Thomas and Co.:	
pastry flour, phosphated flour,		canned corn-----	8250
and plain flour-----	8127	Torresin, J. B.:	
Premium Candy Co.:		Italian rennet-----	8285
cocoa residue powder-----	8169	Tri-State Butter Co.:	
Prices Creameries, Inc.:		butter-----	8191
butter-----	8184	Tropical Fruits Laboratory:	
Prock, C. J.:		Pa-Poya-----	8299
sorghum sirup-----	8172	Union County Pickle Co., Inc.:	
Prosser Flour Mills:		sauerkraut-----	8256
macaroni flour-----	8126		

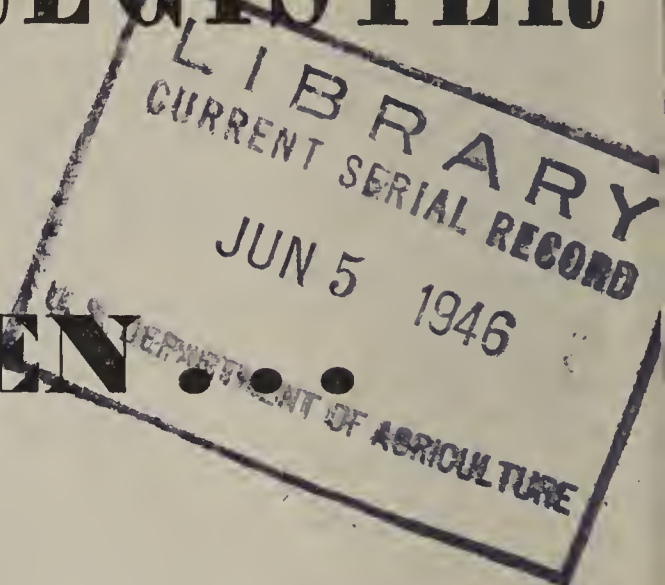
⁹(8223), (8270) Seizure contested. Contains opinions of the court.¹²(8292) Prosecution contested. Contains opinion of the court.

	N. J. No.		N. J. No.
Union Fish Co.:		Wescoat, Philip:	
frozen shrimp-----	8225	blueberries-----	8239
United Candy Co.:		Western California Cannery, Inc.:	
candy-----	8159	tomato paste-----	8264
United Seafood Co.:		Western Candy Co.:	
crab meat-----	8222	candy-----	8161
Van Lill, S. J., Co.:		Whitewright Milling Co.:	
tomato catsup-----	8261	flour-----	8121
Vita Egg Farms:		Whittier Walnut Packing Co.:	
butter-----	8190	walnut meats-----	8276
Vogel and Son Popcorn Co.:		Williams, Walter, Candy Co.:	
popcorn-----	8142	candy-----	8153
Warner's, Mrs., Preserving Co.:		Wilson and Co.:	
sauerkraut-----	8256	soup mixes-----	8283
Watkins, J. R., Co.:		Wood, Wade, Milling Co.:	
Watkins Vitamin B Complex Tablets-----	8291	corn meal-----	8110
Wellington Creamery:		Yakima County Horticultural Union:	
butter-----	8184	apples-----	8238
Wenk Brothers:		Yakima Fruit Growers Assoc.:	
frozen eggs-----	8209	apples-----	8237
Weona Food Stores, Inc.:		Zigler Canning Co.:	
butter-----	8179	apple butter-----	8242
		Zy-Vo Corp.:	
		flour-----	8122

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